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MAJORITY—225-3951
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July 25, 1990

The Honorable Bruce C. Navarro
Acting Assistant Attorney General
Department of Justice
Washington, D.C. 20530

Dear Mr. Navarro:

Thank you for your letter of June 28, 1990, which formalizes an agreement between the Committee and the Department of Justice regarding the delivery of certain sensitive documents and records to the Committee. Your efforts and that of Attorney General Thornburgh in this matter have greatly facilitated the Committee's ongoing investigation of the Department's ADP procurement practices.

For the record, I am in accord with the agreement as specified in your letter and would like to clarify and expand on one point involving paragraph #3. As you have already discussed with my staff, the Committee does not believe there is a need, at this time, to have access to documents pertaining to the Civil Division's litigation strategy involving the Inslaw case before the Court of Appeals for the District of Columbia and the Department of Transportation's Board of Contract Appeals. However, the Committee does seek full access to all files, records and information at the Department pertaining to the litigation of the Inslaw case before the Bankruptcy Court and the Federal district Court since these courts have already rendered a judgment on the matter.

Thank you again for your courtesy, cooperation and support. With best wishes, I am

Sincerely,

JACK BROOKS
Chairman

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MAJORITY—225-3951
MINORITY—225-6906

August 3, 1990

Mr. Edwin A. Meese, III
Heritage Foundation
214 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Dear Mr. Meese:

Enclosed is a copy of the statement given by you on July 12, 1990, which appears in typewritten print. Please indicate any corrections thereon so that your statement can be revised. Changes in diction or expression, or in the interest of clarity, brevity or accuracy, or to correct any errors in transcribing are permitted.

In addition, pursuant to your request enclosed are copies of the Transcript of Remarks by the Honorable Edwin A. Meese, III, to the PROMIS Users Group Meeting, Shoreham Hotel, April 22, 1981 and the October 12, 1986, Los Angeles Times articles. I also request that you respond to the questions enclosed with this letter which were developed subsequent to your statement being given. Please answer these questions freely and completely. Your responses will be included as an attachment to your statement.

As stated in my letter to you of April 26, 1990, the Committee is investigating very serious allegations of misconduct by several officials of the Department of Justice. I would appreciate it if you would cooperate by reviewing the transcript and responding to the above questions as quickly as possible.

Sincerely,

JACK BROOKS
Chairman

Attachment

ADDITIONAL QUESTIONS FOR MR. EDWIN A. MEESE, III

1. According to Justice Department records, you stated that Leonard Garment had told you that he had conversations with Arnold Burns with regard to the INSLAW case.

 A. What were the circumstances surrounding the discussion, when did it occur, who else was present, and what was said?

 B. Mr. Garment told the Senate Permanent Subcommittee on Investigations (PSI) staff that you were mistaken. He insists that you and he discussed a back channel national security issue involving Israel. Who's recollection is correct?

2. Deputy Attorney General Arnold Burns told the PSI staff that he had a social lunch with Mr. Garment in early October 1986. Mr. Burns' further told the PSI Staff that during the course of his conversation with Mr. Garment, Mr. Burns' mentioned that the Department was involved in litigation over the INSLAW matter with Mr. Garment's firm. Mr. Burns' added that he told Mr. Garment that he thought the Dickstein & Shapiro attorney involved, Leigh Ratiner, was handling the matter terribly because Mr. Ratiner was practicing law through the press and through Congress rather than dealing with the Department directly.

 Were you aware of the meeting between Messrs. Burns and Garment? Were you aware that Mr. Burns' made these comments regarding the INSLAW case? If so, under what circumstances were you made aware of this conversation?

3. Do you know Thomas Stanton? Did you know him before he became the Director of the Executive Office for U.S. Trustees? If so, what was your relationship and how often did you meet or talk with him while you were Attorney General?

 Do you know William White? Did you know him before he became the U.S. Trustee for Northern Virginia? If so, what was your relationship and how often did you meet or talk with him while you were Attorney General?

 Were you involved in the selection of either of these individuals for the positions they held with the Department of Justice? If so, what was your involvement? If not, who was involved? Was Associate Deputy Attorney General Burnley involved?

4. While you were Attorney General, INSLAW requested that an independent counsel be appointed to investigate its allegations. The Department refused that request.

 Were you involved in that decision? If so, what was your involvement? Did you recuse yourself?

5. Bankruptcy Judge Cornelius Blackshear in New York has testified that Thomas Stanton told him that he needed to bring Harry Jones to Washington, D.C. to help liquidate INSLAW.

 Were you involved in or know of that decision? Did you or anyone under your supervision direct Mr. Stanton to do so?

6. On page 60 of the enclosed transcript you stated that you have a friend who is on the Board of Directors of Wackenhut Corporation.

 Who is that individual? What is the nature of your relationship?

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MAJORITY—225-3951
MINORITY—225-6906

August 17, 1990

Mr. C. Madison Brewer, Associate Director
Attorney General's Advocacy Institute
Office of Legal Education
Executive Office for U.S. Attorneys
Room 1630 Patrick Henry Building
601 D Street, N.W.
Washington, D.C. 20530

Dear Mr. Brewer:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its ADP contract with Inslaw, Inc. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this case.

I have been informed that on July 19, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in administering the Inslaw contract. Shortly thereafter, arrangements were made between you and Committee staff for a sworn statement to be given by you at a meeting scheduled for 2:30 p.m. on July 31, 1990. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions, on your part, as to whether you needed an attorney present and whether the Department would provide an attorney. As a result of these concerns, the scheduled interview was postponed to August 7, 1990, at 2:30 p.m.

As you may know, the Committee has no objection to you having your attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews of Justice employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's action in the Inslaw case.

It is my understanding that largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. As a result, you requested that the August 7 meeting be delayed to give you time to retain a private attorney and familiarize him with the case. You also added that you would be on vacation from August 13 through August 27 and would not be available to be interviewed until after that time. I fully understand the reasons for the additional time you have requested and therefore propose to reschedule your sworn statement for 1:00 p.m. on September 5 at the Committee office (Room 2138, Rayburn House office Building). I hope this schedule meets your needs so that we can avoid any further delays.

Sincerely,

JACK BROOKS
Chairman

cc: The Honorable Lee Rawls
Acting Assistant Attorney General
Office of Legislative Affairs

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 6, 1990

Honorable Jack Brooks
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your letter dated July 25, 1990, concerning the Committee's agreement to maintain the confidentiality of certain documents and the Committee's request for full access to the Department's litigation files in the Inslaw case before the bankruptcy court and the federal district court.

We have been assured by Committee investigators that this investigation of the Department's ADP procurement practices does not extend to the conduct of the litigation with Inslaw. In order to facilitate fully the Committee's investigation, however, we have made substantial records concerning the litigation available to Committee investigators during the last several months. In addition, at the request of Committee investigators, we prepared an inventory of the Civil Division's files relating to the Inslaw litigation and an index of documents maintained by the attorneys handling the adversary proceeding that reveal our strategy. These lists will enable the investigators to more fully understand the sensitivity of the materials as well as their irrelevance to the Committee's oversight interests. Another inventory, which was previously prepared, contains similar information about another group of files relating to the Inslaw litigation. The inventories and index themselves are so revealing that they can be provided to Committee staff only on a confidential basis. At our meeting on June 6, 1990, and by assenting to our letter of June 28, 1990, Committee staff agreed to protect the confidentiality of these inventories and the index and we are herewith providing them on that basis.

We are prepared to permit Committee staff to review the files listed in the inventories with the exception of the privileged work-product and attorney-client documents. These documents would not be available to a party in litigation with the United States and our providing you with access to these documents could be construed as a waiver of these privileges. Your letter indicates that the Committee seeks access to the litigation materials pertaining to the bankruptcy court and district court proceedings because "these courts have already rendered judgment on the matter." In fact, the proceedings in these courts are neither final nor distinct from the proceedings now pending in the Court of Appeals and the Department of Transportation Board of Contract Appeals ("DOTBCA"). The pending appeal is simply another phase in the same litigation: Inslaw's 1985 adversary proceeding against the Department. The issues are the same, the legal arguments are the same, and the evidence is the same. Thus, the matters discussed in our privileged communications during the trial phase are equally pertinent to the appeal stages. Moreover, if we prevail on any one of the several issues pending in the Court of Appeals, the case is likely to be remanded to either the district court or the bankruptcy court for further proceedings on the same issues.

Additionally, Inslaw's adversary proceeding raised more than a dozen allegations of misconduct, only two of which have been tried to date. The remaining allegations are scheduled for trial (called Phase III of the adversary proceeding) in the bankruptcy court after our appeal is concluded. Discovery in Phase III has been stayed by the district court, but we continue to discuss, analyze, and prepare to respond to Inslaw's various allegations. Furthermore, many of the issues awaiting trial in the bankruptcy court are the same as the issues now being litigated actively in the DOTBCA (e.g., whether the Department properly withheld certain contract payments, whether the contracting office properly administered the contract, whether Inslaw was paid the correct incentive fee).

Under these circumstances, the records generated prior to the filing of our appeals are active litigation files on which our current efforts are predicated. Their production would disclose the deliberations of our attorneys in a way that would be inconsistent with our responsibilities in the ongoing litigation. While we wish to cooperate fully with the Committee's investigation, we regret that we cannot permit access to the privileged documents concerning this active litigation. We are informed that the Committee staff has no interest in the Department's litigation strategy, and therefore we hope that we can explore other avenues of addressing the Committee's interests in this matter.

We appreciate your cooperation and support.

Sincerely,

Bruce C. Navarro
Deputy Assistant Attorney General

Enc.

Inventory of Inslaw File Room
Inventory of Additional Litigation Files
Privilege Index from Adversary Proceeding Files

Justice/Boots

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MAJORITY—225-3951
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September 10, 1990

Mr. Peter Videnieks
Justice Management Division
Department of Justice
Indiana Building
633 Indiana Avenue, N.W., Room 7100
Washington, D.C. 20531

Dear Mr. Boots:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its ADP contract with Inslaw, Inc. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this case.

I have been informed that on July 19, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in administering Project Eagle. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions, on your part, as to whether you needed an attorney present and whether the Department would provide an attorney.

As you may know, the Committee has no objection to your having your attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews of Justice Department employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's action in the Inslaw case.

It is my understanding that, largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. As a result, you requested that you be given an opportunity

to retain private counsel and allow that counsel to prepare for the interview. I fully understand the reasons for the additional time you have requested and, therefore, propose to schedule your sworn statement for 2:00 p.m., on September 25 at the Committee office (Room 2138, Rayburn House Office Building). I hope this schedule meets your needs so that we can avoid further delays.

Sincerely,

JACK BROOKS
Chairman

cc: The Honorable Lee Rawls
Acting Assistant Attorney General

Justice/Inside -

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MAJORITY—225-3951
MINORITY—225-6906

September 10, 1990

Mr. Steve Colgate
Deputy Assistant Attorney General
Information and Administrative Services
Department of Justice
10th and Constitution Avenue, N.W., Room 1116
Washington, D.C. 20530

Dear Mr. Colgate:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its ADP contract, known as Project Eagle. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this case.

I have been informed that on July 19, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in administering Project Eagle. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions, on your part, as to whether you needed an attorney present and whether the Department would provide an attorney.

As you may know, the Committee has no objection to your having your attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews of Justice Department employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's action in the Inslaw case.

It is my understanding that, largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. As a result, you requested that you be given an opportunity

to retain private counsel and allow that counsel to prepare for the interview. I fully understand the reasons for the additional time you have requested and, therefore, propose to schedule your sworn statement for 1:00 p.m., on September 26 at the Committee office (Room 2138, Rayburn House Office Building). I hope this schedule meets your needs so that we can avoid further delays.

Sincerely,

JACK BROOKS
Chairman

cc: The Honorable Lee Rawls
Acting Assistant Attorney General

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MAJORITY—225-3951
MINORITY—225-6906

September 10, 1990

Mr. Floyd Bankson
Bond Building
1400 New York Avenue, N.W., Room 7400
Washington, D.C. 20531

Dear Mr. Bankson:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its ADP contracts with Inslaw, Inc., and Project Eagle. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this case.

I have been informed that on August 15, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in reviewing Inslaw's PROMIS software for the criminal division. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions, on your part, as to whether you needed an attorney present and whether the Department would provide an attorney.

As you may know, the Committee has no objection to your having your attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews of Justice Department employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's action in the Inslaw case.

It is my understanding that, largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. As a result, you requested that you be given an opportunity

to retain private counsel and allow that counsel to prepare for the interview. I fully understand the reasons for the additional time you have requested and, therefore, propose to schedule your sworn statement for 2:00 p.m., on September 21 at the Committee office (Room 2138, Rayburn House Office Building). I hope this schedule meets your needs so that we can avoid further delays.

Sincerely,

JACK BROOKS
Chairman

cc: The Honorable Lee Rawls
Acting Assistant Attorney General

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MAJORITY—225-3951
MINORITY—225-6906

September 10, 1990

Mr. Andrew Boots, Director
Project Eagle Office
Department of Justice
10th and Constitution Avenue, N.W., Room 1229
Washington, D.C. 20530

Dear Mr. Boots:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its ADP contract, known as Project Eagle. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this case.

I have been informed that on August 27, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in administering Project Eagle. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions, on your part, as to whether you needed an attorney present and whether the Department would provide an attorney.

As you may know, the Committee has no objection to your having your attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews of Justice Department employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's action in the Inslaw case.

It is my understanding that, largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. As a result, you requested that you be given an opportunity

to retain private counsel and allow that counsel to prepare for the interview. I fully understand the reasons for the additional time you have requested and, therefore, propose to schedule your sworn statement for 10:00 a.m., on September 27 at the Committee office (Room 2138, Rayburn House Office Building). I hope this schedule meets your needs so that we can avoid further delays.

Sincerely,

JACK BROOKS
Chairman

cc: The Honorable Lee Rawls
Acting Assistant Attorney General

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MAJORITY—225-3951
MINORITY—225-6906

September 17, 1990

The Honorable Dick Thornburgh
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

I am writing to inform you of serious access problems the Committee is experiencing in its investigation of the Inslaw case. As you know, I initiated this investigation in August of 1989 after the Committee received allegations that high level officials of the Department of Justice conspired to drive Inslaw into bankruptcy and arrange to have the company's primary software product, called PROMIS, transferred to or bought by a rival company called HADRON, Inc. At that time, I had hoped that given the seriousness of these charges, the Department officials would cooperate fully with the Committee. However, after several months of stonewalling and foot dragging by Justice officials, I was forced to ask that you personally intervene to ensure that the Department provided our investigators with full and unrestricted access to all DOJ personnel, documents, and information related to the Inslaw case. As a result of my request, you informed me in May, 1990, that the Department would cooperate fully with our investigation. Arrangements were subsequently made for the Committee's access to Department files which, until recently, have worked very well.

Unfortunately, this spirit of cooperation has suddenly vanished and in its place new claims of privilege and confidentiality by Justice officials have emerged. The conflict appears to center on documents involving the so-called "litigation strategy" of DOJ attorneys trying the Inslaw case before the Appeals Court. I thought this problem was resolved when I agreed by letter (see Letter to Bruce C. Navarro of July 25, 1990, enclosed) that at this time we have no need to review these documents. However, I did point out that the Committee needed full and open access to all documents related to the Inslaw case at the Bankruptcy Court and Federal District Court since decisions have already been rendered by these courts.

Apparently, my request has been denied by Department officials. According to a letter sent to me by Mr. Navarro on September 6, 1990, the Department considers all litigation involving Inslaw as one continuing case which is currently before the Court of Appeals. As such, even though the Bankruptcy Court and the Federal District Court have ruled on the matter, the Department asserts that all documents, materials, records and other information relating to the litigation strategy used by Justice attorneys

at these courts are still confidential and will not be released to the Committee. Furthermore, it appears from Mr. Navarro's letter that the Department is now claiming that certain other documents, records and files not related to "litigation strategy" but used by DOJ attorneys as part of the Bankruptcy and Federal District Court cases are also "confidential" or "privileged" and will not be released to the Committee. The only rationale offered by the Department for this position is that the requested material was not made available to Inslaw during the litigation and that if the Department provides the Committee with this material, the Courts will construe this as a waiver of the Department's right to withhold this material from Inslaw.

Mr. Navarro's letter included three lists of documents which to varying degrees are at the heart of the access controversy. According to Faith Burton of Mr. Navarro's office, the first is a 422 page general index of all records related to Inslaw located at the Justice Department's central file room. It is our understanding that this list contains both "privileged" documents which will not be released to the Committee and documents that can be released; however, these documents are not necessarily identified as being in one category or the other. Ms. Burton identified the second list as additional documents related to Inslaw that are located at various DOJ branches. Again, it is our understanding that some of these documents will not be released to the Committee because they are "privileged" or "confidential," although not all are marked as such at this time. According to Ms. Burton, the general rule is that if the document has been made available publicly, it will be made available to the Committee. Finally, the third list contains 175 documents that are "privileged" and, according to Ms. Burton, under no circumstances will the Department release these to the Committee.

I am deeply concerned about this latest turn of events. I had thought that I had your personal assurance that the Committee would be given full and unrestricted access to all DOJ documents, records and personnel involved in the Inslaw case. Only under these conditions can the Committee conduct a professional, objective and complete investigation. The Committee investigators have been working steadily since we received access to the Department's files starting in May of this year. We are at a critical stage in both the Inslaw investigation and our corollary review of Project Eagle. It would be truly unfortunate to have our resources diverted away from completing our work due to a conflict over access to DOJ records. However, if the Department continues to maintain its current position as outlined in Mr. Navarro's September 6 letter, I will have no choice but to convene a hearing on the matter at the earliest possible date to resolve the issue.

I know that you want to see the Inslaw matter resolved as quickly as possible and I genuinely hope that we can reach an amicable solution to our access to records problems at the Department. Since the Committee has a very busy schedule during the month of September, I would appreciate it if you would personally respond to this letter by Monday, September 24, 1990.

With best wishes, I am

Sincerely,

JACK BROOKS
Chairman

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MAJORITY—225-3951
MINORITY—225-6906

November 19, 1990

The Honorable Jay Stephens
U.S. Attorney
District of Columbia
Judiciary Center Building
555 - 4th Street, N.W.
Washington, D.C. 20001

Dear Mr. Stephens:

As Chairman of the Committee on the Judiciary, I have authorized an investigation of the Department of Justice's handling of its contracts with Inslaw, Inc. As part of this investigation, a series of interviews have been scheduled with key individuals who were substantially involved in this matter.

I have been informed that on August 8, 1990, Committee staff contacted the Department concerning the Committee's desire to interview you about your involvement in the review of allegations raised by Inslaw. Subsequently, my staff was informed by the Department that the request for a sworn statement raised questions on your part as to whether you needed an attorney present and whether the Department would provide an attorney.

As you may know, the Committee has no objection to your having your personal attorney present during the sworn statement to advise you of your Constitutional rights. However, the Committee has objected to having Department attorneys involved in our interviews with Justice Department employees because of the inherent conflict of interest involved in simultaneously attempting to represent both the Department's interest and the interest of the Department's employee. Furthermore, it is my firm belief that the Department's presence at these interviews would have a chilling effect on Justice employees, some of whom may have views critical of the Department's actions in the Inslaw case.

It is my understanding that, largely due to the concerns raised by the Committee, the Department decided not to send a Justice Department attorney to your interview. However, I have been informed that you continue to insist that the Department represent you in this matter. For the reasons already

stated, this is unacceptable to the Committee. I therefore request that you agree to schedule your sworn statement for 2:00 p.m., on November 29, 1990, at the Committee office (Room 2138 Rayburn House Office Building). I hope this schedule meets your needs so that we can avoid further delays.

Sincerely,

JACK BROOKS
Chairman

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MAJORITY—225-3951
MINORITY—225-6906

November 19, 1990

The Honorable Edwin A. Meese, III
Heritage Foundation
214 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Dear Mr. Meese:

On August 3, 1990, I sent you a transcript of your interview before Committee investigators and asked you to make any necessary corrections. In addition, I requested that you answer some additional questions resulting from our review of the transcript.

It is my understanding that Committee investigators have contacted you or your office on numerous occasions about a response to my August 3, 1990, letter and that you have failed to respond. As I have stated in my previous letters to you, the Committee is investigating very serious allegations of misconduct by several current and former officials of the Department of Justice. I would appreciate it if you would cooperate with the Committee by responding to the questions raised in my August 3, 1990, letter. In the interest of resolving this matter as quickly as possible, I would appreciate an expeditious response to my request.

Sincerely,

JACK BROOKS
Chairman

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MAJORITY—225-3951
MINORITY—225-6906

November 20, 1990

The Honorable Dick Thornburgh
Attorney General of the United States
Washington, D.C. 20530

Dear Mr. Attorney General:

This furthers our previous correspondence about the Committee's investigations of the Department's ADP procurement practices, particularly but not exclusively related to Inslaw and Project Eagle.

I have been informed that Committee staff requested information relating to case management software and hardware in use by the Department's divisions, bureaus, boards and offices. This request was in the form of a list of questions. The Committee has received a response to this request, copies of which are attached. I have been further informed that in at least one instance, there is a discrepancy between the response received as a result of this request and subsequent interviews conducted by Committee staff. As a result, I am requesting that your staff verify this information, and provide the Committee with a written response from each location.

Additionally, I request that each of the Department's divisions, bureaus, boards and offices provide the Committee with responses to the following questions pertaining to office automation hardware and software:

-- What is the name of the contractor or contractors providing office automation?

-- What is the date of the contract or contracts?

-- What is the size of the contract or contracts (i.e., number of terminals and dollar value)?

-- What is the contract number?

-- What type of hardware is in use (i.e., PCs or mini computers)?

-- What software is in use?

-- When was this equipment installed?

Thank you again for your cooperation and support. With best wishes, I am

Sincerely,

JACK BROOKS
Chairman

APPENDIX 2.— MATERIAL SUBMITTED FOR THE HEARING RECORD

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1902/04 SHELL TOWER
50 RAFFLES PLACE
SINGAPORE 0104

515 SOUTH FIGUEROA STREET
LOS ANGELES, CA. 90071

May 11, 1989

The Honorable Dick Thornburgh
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

As you undoubtedly know through Robin Ross, I have for some time been seeking the opportunity to talk to you about an aspect of the INSLAW matter that seems to me to belong squarely in your lap. This is the conflict of interest involving the Department of Justice itself that I first called to your attention in my letter of August 19, 1988. The conflict arises from the fact that the Department is defending itself against a civil suit brought by INSLAW while at the same time dealing with allegations of criminal conduct on the part of its own employees that would, if proven, destroy that very defense.

The manner in which the Department has up to now responded to the situation makes it apparent that defense of the civil suit has been given priority over the criminal investigation. Indeed, you yourself virtually acknowledged this the other day in your response to a question put to you by Judiciary Committee Chairman Jack Brooks. It is clear, in any case, that the Department is conducting an all-out, no-holds-barred defense of the civil suit while dragging its feet on the criminal investigation.

We are aware, of course, that some kind of an investigation has been conducted. Indeed, we have been told that it is now nearly finished. We also know, however, that the investigation cannot have been thorough or complete. This conclusion is compelled by the following facts:

(a) A thorough investigation would have had to seek information from William A. Hamilton, President of INSLAW. He not only knows far more about the INSLAW matter than anyone else, but the accuracy and retentiveness of his memory have been confirmed time and again by the discovery of documents and the corroborative testimony of others.

(b) No one has talked to Mr. Work or me; after the Hamiltons, we are the next-best informed about the case. Despite our inevitable bias, both of us are experienced prosecutors and are quite capable of evaluating evidence and identifying leads that a conscientious investigation would have pursued.

(c) Had the Department conducted a thorough investigation, it would have interrogated many of the same individuals who have given us leads and information. To the best of our knowledge, only one of those individuals has heard from anyone representing the Department.

For reasons previously explained by Mr. Work to the Public Integrity Section and restated in several letters to Mr. Keeney, the findings of the Bankruptcy Court should in themselves have been sufficient to trigger a thorough investigation. Since then significant new information, some of it referred to in my memorandum to Mr. Ross, has confirmed and supplemented those findings. Among the most important and solidly-grounded leads that had by then been uncovered are the following:

(a) Early in 1981 Meese, Earl Brian, and Edwin Thomas, all close friends, converged on Washington. In subsequent months Meese allowed Brian to use a White House office; Thomas became an aide to Meese and borrowed $100,000 from Brian to buy a house; Mrs. Meese, with $15,000 loaned by Thomas, bought stock (later sold at a loss) in Biotech Capital Corporation, a Brian company, and stock (later sold at a profit) in American Cytogenetics, another Brian company.

*In a phone conversation with Mr. Ross on October 11, 1988 I informed him that Charles R. Work, INSLAW's trial counsel, and I had advised Mr. Hamilton not to agree to an interview by OPR attorney Robert Lyons and assured Mr. Ross that INSLAW would be glad to cooperate with an unbiased investigation. A follow-up memorandum explaining the reasons for this advice reiterated INSLAW's readiness to cooperate.

(b) In the summer of 1981 INSLAW was seeking a contract to install PROMIS in the U.S. Attorneys' Offices. When it appeared probable that INSLAW would get the contract, the PROMIS project manager and contracting officer were removed and replaced by recruits from outside the Department, both of whom were found by the Bankruptcy Court to be biased against INSLAW.

(c) In June or July of 1983, a whistleblower warned Senator Baucus that Meese and Jensen were planning to award a "massive sweetheart contract" to their friends to install PROMIS in the Department as soon as Meese became Attorney General.

(d) In April, 1983, Hadron, Inc., a Biotech subsidiary, offered to purchase INSLAW. Hamilton told Dominick Laiti, Hadron's chairman, that he was not interested. Laiti said, "We have ways of making you sell." Hadron later received a $40 million contract from the Department.*

(e) On February 8, 1985, the day after INSLAW filed in bankruptcy, AT&T's counsel, a lawyer named Ken Rosen never previously employed by AT&T, launched an effort to push INSLAW into liquidation. Rosen's co-counsel was Shea & Gould, who were also Brian's counsel. There is evidence that Rosen was acting in collusion with the Executive Office for U.S. Trustees.

(f) The two versions of Cornelius Blackshear's testimony with regard to that Office's role cannot both be true. It has since been reported that Blackshear has recanted his recantation. The original Blackshear testimony is corroborated by Anthony Pasciuto, whom OPR attempted to get rid of, and several other witnesses. Blackshear explained his first recantation on the ground that he had confused INSLAW with UPI, another bankrupt company. Brian made a bid for UPI while it was in bankruptcy and later took it over.

(g) On May 23, 1986, the Department published a request for proposals (RFP) on a large office automation and case management system. Called "Project Eagle," this RFP is estimated to cost some $212 million, not counting expansion options. Project Eagle case management software is an essential component of any such system; it is a

*Independent Counsel Jacob Stein had all the information in subparagraph (a) but not the information in this subparagraph.

function performed uniquely well by PROMIS. When first released, the RFP stated that the Department planned to develop new case management software once the Project Eagle computer hardware contract was awarded. The Department later amended the RFP in a manner indicative of a plan to install PROMIS. Although the Department at one point denied this implication, it ultimately admitted, in a pleading filed in the INSLAW litigation, that the added requirements were issued for the express purpose of making possible the use of PROMIS.

(h) Notwithstanding the seriousness of the allegations about D. Lowell Jensen made to Ronald A. LeGrand by a trusted source in the Department, LeGrand has declined to identify his informant because the latter is still afraid to come forward. The informant has not yet been given explicit assurance of protection against reprisal.

In the six months since my memorandum to Mr. Ross a substantial amount of additional information has come to light. Some is corroborative; some is merely suggestive. All of it calls for follow-up of a kind that INSLAW has not been able to pursue because, on motion of the government, it has been denied subpoena power and access to discovery proceedings pending the government's appeal from the Bankruptcy Court judgment. Here are some examples of this additional information:

(a) Jacob Stein was unable to find any of Meese's telephone logs for the entire period from April 22 to October 12, 1983 except for 10 days. That was the period of the Department's most strenuous efforts to gain control over the PROMIS software.

(b) Two former employees of Dickstein, Shapiro & Morin, Meese's counsel in the Stein investigation, have said that they shredded about 40 boxes of Meese-related documents.

(c) Brian and Laiti contacted two New York firms in September, 1983 to raise money for the purchase of criminal justice software; according to one source, PROMIS was the software being sought.

(d) In December, 1984, Daniel Tessler of 53rd Street Ventures, which had invested in INSLAW and was one of the companies contacted by Brian in September, 1983, demanded that the Hamiltons sign over to him the voting rights of their controlling interest in INSLAW common stock.

Tessler is a cousin of Alan Tessler, the Shea & Gould partner who handled M&A work for Brian.

(e) A source in the Department has said that a Jensen aide told her in 1984 that "Jensen was the main person behind the INSLAW problem" and that "his style was to operate using his subordinates."

(f) In October, 1985, Systems and Computer Technology, Inc. began an aggressive effort to take over INSLAW. According to a former SCT official, certain Departmental employees told SCT that the Department would welcome a hostile acquisition of INSLAW and quickly settle its contract disputes with INSLAW once Hamilton was removed.

The Bankruptcy Court's most important finding was that the effort to destroy INSLAW and take over its software was manipulated by the Department's contract manager, a discharged INSLAW employee whose vindictiveness would have been checked but for the ill-will of Jensen, the unsuccessful developer of competing software. The more recent information points to an even uglier scheme: friends of Meese were to get the Project Eagle contract and use PROMIS as its software component, having acquired PROMIS by whatever means they had to employ up to and including "trickery, fraud, and deceit."

Although the combination of the Bankruptcy Court findings and the later information illustrated above may not be sufficient to support an indictment, there can be no question that it meets the requirements of "specificity" and "credibility" as these terms are used in 28 U.S.C. § 591. While adequate to implicate individuals of the rank with which § 591(b) is concerned, this combination is even more compelling in the context of § 591(c), the "catch-all" provision.* In this instance the conflict is between individuals within the Department of Justice who cannot help being pulled in opposite directions by competing personal and institutional loyalties. The history of the Department's handling of the matter makes this conflict glaringly obvious. The result has been a tenacious defense against civil claims with consequent neglect of serious charges of criminal conduct. It is all too

*The legislative history makes this amply clear. See e.g., S. Rep. No. 496, 97th Cong., 2d Sess. 12-13 (1982) reprinted in 1982 U.S. Code Cong. & Admin. News 3548-49.

**See id. at 9, 1982 U.S. Code Cong. & Admin. News at 3545.

evident that the Department would rather win the civil case than uncover facts that might force it to confess error.

To date, the cost to INSLAW has been exceeded only by that to the public interest. The U.S. Attorneys' Offices have been deprived of the improvements in PROMIS they would otherwise have obtained. The introduction of much-needed modern management systems for departmental litigation has been inexcusably delayed. Worse still, substantial evidence of serious wrongdoing has not been followed up. Speaking as a lawyer who has spent most of his life in public service, I do not understand this perversion of priorities.

Bill Hamilton, Chuck Work, and I share a strong sense of loyalty to the Department of Justice. We care about the integrity of its conduct. We may be wrong in believing that this has been compromised, but if so we're entitled to find that out through a process that is not flawed by a built-in conflict of interest. The only solution, as we have long insisted, is the appointment of independent counsel pursuant to the statute. In the light of the foregoing, I am confident that you will recognize the force of this contention.

Very truly yours,

Elliot L. Richardson

cc: William A. Hamilton
John C. Keeney
James C. McKay
Robert S. Ross
Charles R. Work

General Services Administration
Information Resources Management Service (KMAP)
Washington, DC 20405

SEP 21 1990

The Honorable Harry H. Flickinger
Assistant Attorney General
for Administration
Department of Justice
Washington, DC 20530

Dear Mr. Flickinger:

In our letter dated January 16, 1990, we notified the Department of Justice that the General Services Administration (GSA) would conduct an Information Resources Procurement and Management Review of Justice beginning May 14, 1990.

This review has been completed and copies of the Draft Report are enclosed for your review. Please prepare a response and forward it to GSA by November 21, 1990.

The GSA Draft Reports are not released under Freedom of Information Act (FOIA) requests prior to issuance of the Final Report. If you consider portions of the Draft Report subject to the exemptions of the FOIA, please forward your recommendations under a separate letter.

Justice has achieved important accomplishments in certain information resources management (IRM) areas. Overall, however, Justice has not achieved cohesiveness in its IRM program. The Department's IRM program suffers from organizational separation of functional areas that affects coordination and communication among key groups. These problems have affected the overall efficacy of the Justice IRM program. GSA looks forward to working with Justice's IRM officials in the near future to improve the program's level of integration and overall effectiveness.

Sincerely,

Francis A. McDonough
Assistant Commissioner for
Federal Information
Resources Management

Enclosure

INFORMATION RESOURCES

PROCUREMENT AND MANAGEMENT REVIEW REPORT

DEPARTMENT OF JUSTICE

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INFORMATION RESOURCES
PROCUREMENT AND MANAGEMENT REVIEW

DEPARTMENT OF JUSTICE

EXECUTIVE SUMMARY

The General Services Administration (GSA) conducted a review of the Department of Justice information resources management (IRM) activities from May through July 1990. The primary purpose of the project was to assess management and acquisition of information technology by the Department, with particular emphasis on management of authorities delegated to it by GSA. This report presents the findings and recommendations developed during that review.

The primary focus of the review was the quality and effectiveness of Departmentwide IRM oversight and guidance. Areas of investigation included organization, strategic planning, acquisition management, and automatic data processing (ADP), records and telecommunications management.

The Department of Justice IRM program has been the focal point of many recent reviews and audits by a variety of organizations. In recent months, the General Accounting Office (GAO) and the House of Representatives Committee on Appropriations have performed audits at Justice. The Department's own Offices of the Inspector General and the Procurement Executive have accomplished audits of component organizations. The Inspector General has focused on various IRM programs. The Office of the Procurement Executive, while focusing on procurement management, has evaluated numerous information technology procurements. The GSA review team has attempted to use the information available from the reports that resulted from these reviews in order to develop the broadest possible picture of the Justice IRM program while limiting duplication of effort.

The Department of Justice includes several Bureaus as well as various offices, boards and divisions. Each of these entities has established its own IRM organization and each operates that organization independently. Additionally, the Department itself has an extensive IRM organization that is responsible for IRM policy. Also within the scope of responsibility for the Department's Designated Senior Official (DSO) for IRM is operational support for records management and ADP for the various offices, boards and divisions. The DSO also provides operational support for Departmentwide telecommunications.

In general, the Department of Justice IRM organization can be characterized as diffuse. Several organizations provide policy development for various IRM functional areas. All of these

organizations are under the direction of the Assistant Attorney General for Administration. However, despite their concentration under the leadership of the DSO, they lack the degree of communication among themselves essential to truly effective Departmentwide program leadership. Most inter-office communication is limited to the highest levels. This inhibits effective cooperation not only in policy development and oversight, but also in operational activities.

Additionally, the existing organizational structure is hampered by the inclusion of both policy development and operational responsibilities in a single organization. When an organizational entity is responsible for both developing and executing policy in a given functional area, the opportunity for effective oversight is dissipated.

Until recently, the primary focus of the Department of Justice IRM organization has been Automated Information System (AIS) planning and acquisition. The Systems Policy Staff (SPS) has implemented a commendable program for AIS strategic and tactical planning. A major feature of SPS oversight is review and approval for AIS requests. Establishment of a more feasible schedule for the planning program combined with stricter Department-level oversight will strengthen this program further.

An effort is underway to redirect the focus from strictly AIS strategic planning to IRM planning. The Department also intends to enhance the IRM program to include new legislated responsibilities and to improve the performance of existing ones. Unfortunately, the Department has not yet allocated the resources necessary to actively implement a viable IRM program.

The Department has exerted little effort to establish effective program oversight and analysis of its IRM review program activities. Nor does it take advantage of available IRM review activity reports to inform its understanding of the component organizations or perform reviews of its own. Because IRM organizations do not involve themselves in review activity or take steps to be informed about review activity in other organizations, they are handicapped in their ability to oversee the IRM program.

Justice's records management is not well integrated across the Department. Justice does not provide direction or oversight to the component organizations. The only interaction noted by GSA concerned component organizations' questions addressed to the Department. Thus, the records management program's success depends upon the initiative of individual component organizations.

The Department-level records management program itself displays little integration. Management of paper records (including

directives, forms, files, and disposition) is handled separately from other records management functions (copy, mail, correspondence, micrographics, electronic recordkeeping management).

The Department program for computer support for employees with disabilities has been disappointing. The existing order for this program assigns key responsibilities in various areas, but does not provide for any oversight. Actual implementation has been very weak, with only two individuals counseled about available support. While other activities have been performed under this program, it is by no means active in the area. Coordination among the responsible organizations has been very limited where it has existed at all. Furthermore, the program lacks coordination with the component organizations either for purposes of providing direction or overseeing activity.

Procurement management for new information technology is another area that requires improvement. Department-level oversight is copious, but has been ineffective in inducing program improvements.

The Department has failed to implement its program for timely advance procurement planning. This has contributed to various procurement management problems including a high level of sole source procurements, fragmentation of requirements, and failure to take advantage of consolidation opportunities. Additionally, Justice's major procurement projects have suffered a history of delays and schedule changes that appear to be the result of ineffective project planning.

The Justice telecommunications management officials do not provide adequate oversight of the radio communications activities. They are unaware of annual expenditures for both radios and their maintenance. They have provided no planning for transition to new standards for the use of essential encryption for radios.

Most of the GSA review focused on Department-level management. However, in the course of evaluating individual procurement cases, the team noted problems with the FBI's maintenance of procurement related files. The files were scattered among various offices so that acquiring them for review was very difficult. Once found they were disorganized and failed to support proper management practices.

In summary, in spite of the enhancements that appear to be on the horizon, much remains to be accomplished within the Department. Through diligent oversight, and improved IRM programs and procedures, the issues and problems discussed can be eliminated.

Findings

The following summary of the review team's findings is organized into three major sections: IRM organization and planning, resources management, and acquisition management. These summary statements also serve as headings for the detailed discussion in the main body of the report.

IRM ORGANIZATION AND PLANNING

THE DEPARTMENT OF JUSTICE IRM ORGANIZATIONAL STRUCTURE LACKS THE FOCUS NECESSARY TO ENSURE PROGRAM EFFECTIVENESS.

DESPITE SIGNIFICANT STRIDES IN JUSTICE'S AIS STRATEGIC PLANNING PROGRAM, IMPORTANT ISSUES REMAIN TO BE ADDRESSED.

JUSTICE'S PROJECTS FOR EXPANDING THE IRM PROGRAM LACK ADEQUATE STAFFING.

THE JUSTICE MANAGEMENT DIVISION HAS IMPLEMENTED OVERSIGHT, REVIEW, AND APPROVAL FOR AIS REQUESTS, BUT NEEDS TO REFINE ITS ANALYST REVIEW PRACTICES.

RESOURCES MANAGEMENT

THE JUSTICE MANAGEMENT DIVISION PERFORMS NO ACTIVE ROLE IN THE DEPARTMENT'S IRM REVIEW PROGRAM.

THE JUSTICE MANAGEMENT DIVISION DOES NOT MAKE FULL USE OF AVAILABLE REVIEW AND AUDIT RESOURCES.

JUSTICE EFFORTS TO IMPLEMENT FTS 2000 SERVICE IN LIEU OF ITS PLANNED TELECOMMUNICATIONS NETWORK HAVE PROVEN SUCCESSFUL.

JUSTICE HAS INADEQUATE POLICY AND PROCEDURES IN PLACE TO ENSURE INTEGRATION AND COORDINATION OF ITS RADIO COMMUNICATIONS RESOURCES.

THE JUSTICE PROGRAM TO SUPPORT ELECTRONIC OFFICE ACCESSIBILITY FOR EMPLOYEES WITH DISABILITIES LACKS KEY ELEMENTS.

THE DEPARTMENTAL RECORDS MANAGEMENT STAFF DOES NOT PROVIDE OVERSIGHT FOR BUREAU PROGRAMS.

ACQUISITION MANAGEMENT

EXTENSIVE DEPARTMENTAL OVERSIGHT OF PROCUREMENT ACTIVITY HAS NOT RESULTED IN SIGNIFICANT IMPROVEMENT.

JUSTICE DOES NOT ADHERE TO EXISTING REQUIREMENTS FOR ADVANCE PROCUREMENT PLANNING.

INADEQUATE ADVANCE PROCUREMENT PLANNING HAS CONTRIBUTED TO HIGH LEVELS OF NON-COMPETITIVE PROCUREMENT.

INFORMATION TECHNOLOGY PROCUREMENTS REVEAL A PATTERN OF SIGNIFICANT SCHEDULE SLIPPAGE.

THE FEDERAL BUREAU OF INVESTIGATION HAS NOT MANAGED ITS PROCUREMENT RECORDS EFFECTIVELY.

Recommendations

The following recommendations are based on the findings of this study. Section II contains a discussion of each recommendation.

JUSTICE SHOULD TAKE STEPS TO SEPARATE POLICY DEVELOPMENT FROM OPERATIONAL RESPONSIBILITIES WHILE PROMOTING ESSENTIAL COMMUNICATION AMONG IRM ACTIVITIES.

THE DEPARTMENT SHOULD RESTRUCTURE ITS PLANNING SCHEDULE TO ENCOURAGE COMPLIANCE.

THE DEPARTMENT SHOULD ALLOCATE NECESSARY STAFF TO ACCOMPLISH ITS IRM GOALS AND OBJECTIVES.

THE JUSTICE MANAGEMENT DIVISION SHOULD STANDARDIZE AIS REVIEW PROGRAM PRACTICES.

THE JUSTICE MANAGEMENT DIVISION SHOULD ADOPT A MORE ACTIVE ROLE IN THE IRM REVIEW PROGRAM.

THE JUSTICE MANAGEMENT DIVISION SHOULD ARRANGE FOR ITS ANALYSTS TO RECEIVE RELEVANT AUDIT REPORTS.

THE DEPARTMENT OF JUSTICE SHOULD INTEGRATE RADIO COMMUNICATIONS TO ENSURE THAT THE PROGRAM IS SUBJECT TO ADEQUATE PLANNING, MANAGEMENT, AND OVERSIGHT.

IRM OFFICIALS SHOULD TAKE STEPS TO ENSURE THAT THE PROGRAM FOR COMPUTER ACCOMMODATION OF EMPLOYEES WITH DISABILITIES IS FULLY IMPLEMENTED.

DEPARTMENTAL OFFICIALS SHOULD ENSURE COMPLIANCE WITH FEDERAL AND DEPARTMENT RECORDS MANAGEMENT REGULATIONS BY CONDUCTING PERIODIC RECORDS MANAGEMENT REVIEWS.

JUSTICE PROCUREMENT OFFICIALS MUST PLACE A HIGH PRIORITY ON PROMPT FOLLOW-UP OF PROCUREMENT SYSTEM REVIEWS TO ENSURE RECOMMENDATIONS ARE IMPLEMENTED.

DEPARTMENTAL OFFICIALS MUST INITIATE THE NECESSARY ACTIONS TO IMPROVE THE LEVEL OF FULL AND OPEN COMPETITION AND TO PROMOTE EFFECTIVE AND ECONOMICAL INFORMATION TECHNOLOGY PROCUREMENTS.

JUSTICE OFFICIALS SHOULD ENSURE COMPONENT ORGANIZATIONS' ADHERENCE TO ADVANCE PROCUREMENT PLANNING REGULATIONS.

THE DEPARTMENT SHOULD DIRECT ITS COMPONENT ORGANIZATIONS EXPERIENCING MAJOR SCHEDULE SLIPPAGE TO REEVALUATE THEIR INFORMATION TECHNOLOGY NEEDS AND ACQUISITION STRATEGIES.

THE FEDERAL BUREAU OF INVESTIGATION SHOULD INSTITUTE A SYSTEM FOR MANAGING PROCUREMENT RECORDS THAT WILL ENSURE RAPID ACCESS.

I. INTRODUCTION

The General Services Administration (GSA) has taken a number of steps over the last ten years to increase its delegations of procurement authority (DPAs) to Federal agencies. Consequently, GSA has placed greater emphasis on the responsibilities of agency officials to ensure that current regulatory provisions are followed before acquisitions take place.

In 1983, GSA significantly raised agencies' blanket dollar thresholds to $2.5 million for competitive procurement of automatic data processing (ADP) equipment. The agency made similar increases for other procurement alternatives such as GSA schedules, sole source contracts and leasing. GSA thus extended greater autonomy and oversight responsibility to the agencies.

In recent years, GSA has significantly broadened the scope of its reviews to include nearly all functional information resources management (IRM) areas. The new title, "Information Resources Procurement and Management Reviews," reflects these changes. While the cornerstone of these reviews continues to be the information technology acquisition process and compliance with the Federal IRM Regulation (FIRMR), the reviews address management and organizational issues as well.

Through the Brooks Act of 1965 and the Paperwork Reduction Reauthorization Act of 1986, GSA may grant broad discretion to agencies which have demonstrated IRM management competence. When granted, this discretion results in less direct GSA involvement. GSA's delegations are intended to provide strong incentives to the agencies to make substantial improvements in the management and acquisition of information resources. In particular, agency oversight of IRM and acquisition is a primary factor in GSA's determination for granting specific and blanket delegations of procurement authority to agencies.

In the spring of 1989, GSA conducted a program review of its authorization and management review functions, resulting in some material changes to the review program. The most fundamental of these changes was GSA's decision to conduct more agency reviews beginning in fiscal year 1990. Because of their increased number, the reviews are somewhat shorter, but more focused and rely on information provided by the agency in the form of a questionnaire during the pre-review.

A. Review Scope and Methodology

In its entrance letter to Department of Justice officials announcing this review, GSA included a detailed Pre-Review Questionnaire that addressed the priority review areas: IRM Management, Organization, Oversight and Delegation of Authority, Significant Information Technology Initiatives, Strategic IRM Planning, Delegations of Procurement Authority, Procurement and

Contracting, and ADP Equipment Inventories. GSA used the questionnaire response to assist in overall evaluation of the Department's management of information resources. Using the questionnaire response, GSA was able to gain a general overview of IRM functional areas for further review during the on-site portion.

To accomplish the on-site portion of the review, GSA management officials conducted an Entrance Interview with the Department's Designated Senior Official (DSO) for IRM, the Senior IRM Manager, various members of his staff, and IRM officials from various Justice component organizations. The review team then held discussions with IRM and procurement officials at Departmental offices in Washington, D.C. The review team also visited the Drug Enforcement Agency (DEA) and the Federal Bureau of Investigation (FBI) to research specific procurement cases.

In addition to these interviews, the review team evaluated Justice documentation on information resources procurement and management policies, procedures, and organizational missions and functions. The team selected and analyzed four major acquisitions to validate compliance with Federal regulations and to evaluate the adequacy of the supporting studies which were certified as completed. The selected cases were:

Central Computer Processing Units for the Justice Computer Service

Justice Telecommunications Network

FBI Comprehensive Advanced Systems Expansion (CASE)

FBI Intelligent Work Stations

These cases are detailed in Appendix B.

B. Agency Overview

The Department of Justice is comprised of numerous component organizations, including Bureaus, Offices, Boards, and Divisions, which vary greatly in size and complexity. The major Bureaus represent 75 percent of the Department's information technology expenditures.

To serve the needs of these diverse organizations, Justice has developed a centralized IRM structure. The Justice Management Division (JMD) is headed by the Assistant Attorney General for Administration, who is the Designated Senior Official for IRM. JMD includes a variety of staffs and offices that supply both policy and operational support for IRM. JMD and the

relationships among its various component organizations are illustrated in Figure 1.

Justice automated information systems (AIS) policy is the responsibility of the Systems Policy Staff (SPS), headed by the Senior IRM Manager. Other IRM policy responsibilities are handled by various JMD organizations. Records management policy emanates from the Facilities and Administrative Services Staff. Telecommunications policy is developed by the Computer Technology and Telecommunications Staff (CTTS), Justice Telecommunications Service (JTS).

Operational IRM responsibilities are assigned to the Office of the Deputy Assistant Attorney General for Information and Administrative Services. Within this organization, CTTS acts as the "information utility," providing ADP and telecommunications resources throughout the Department. To accomplish this task, the CTTS operates two major computer centers which handle much of the Department's computing needs. CTTS also manages the Department's voice and data telecommunications operations.

The larger component organizations operate their own IRM programs, with CTTS providing large scale computing capability, and acting in an oversight capacity. The smaller of the component organizations rely heavily on CTTS to provide automated information services and telecommunications. The scope of IRM responsibilities at the component organizations ranges from AIS only to fully integrated IRM programs.

In addition to CTTS, several divisions and staff offices under the Deputy Assistant Attorney General provide operational support in various IRM disciplines. The Facilities and Administrative Services Staff provides records management for the Offices, Boards, and Divisions. The Litigation and Information Systems Staff (LISS) is responsible for the Department's program for computer support of disabled employees.

SPS provides both planning leadership and oversight for AIS programs throughout the Department. In the AIS planning arena, SPS collects strategic AIS plans from each of the component organizations, using this information as a foundation for a Departmentwide AIS strategic plan. SPS also is the central control point reviewing AIS acquisition requests from the component organizations. The result of this review, after SPS works with the requesting component organization to resolve problems or concerns, is a recommendation to the DSO for approval of the request.

Justice information technology obligations are projected at $621 million for fiscal year 1991. This represents a 57 percent growth over the 1987 level, increases having ranged from 7 to 20 percent each year. The average Departmental information

JUSTICE MANAGEMENT DIVISION

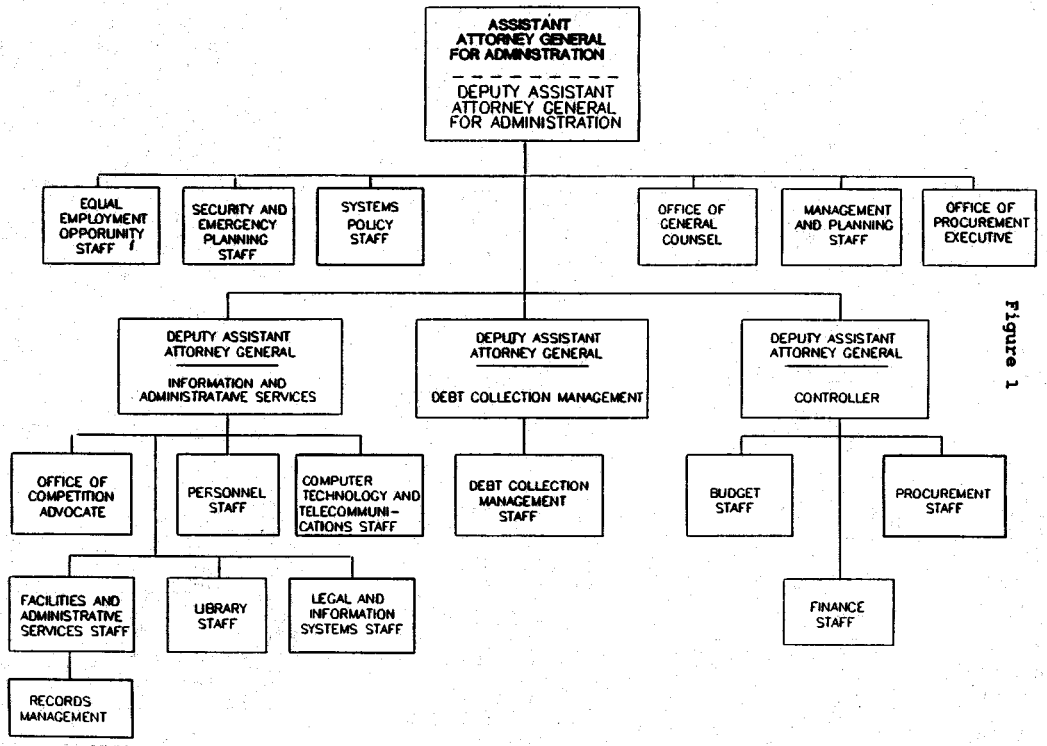


Figure 1

technology budget for fiscal years 1987-1991 is $500 million, with the FBI accounting for 30 percent of this budget, DEA and the Immigration and Naturalization Service (INS) at 15 percent each, and the remaining component organizations totaling 40 percent.

The Department of Justice submitted 118 agency procurement requests (APRs) for fiscal years 1987 through 1989. Of these 23 were for ADP equipment and 95 were for Telecommunications acquisitions. Requests totalled $679 million. Fifty percent were targeted for full and open competition, 45 percent for compatibility limited acquisitions, 4 percent sole source, and less than 1 percent for other acquisitions.

The IRM program at Justice has traditionally focused on AIS, with paper and electronic records management, as well as voice and radio telecommunications programs, handled by other parts of JMD. There are indications, however, that the scope of SPS's responsibilities may be expanded in the near future, in a move toward a broader IRM program.

II. MAJOR FINDINGS AND RECOMMENDATIONS

The review team's major findings are organized into three sections: IRM organization and planning, resources management, and acquisitions management. These were also the three primary areas of focus for this review.

A. IRM ORGANIZATION AND PLANNING

FINDING: THE DEPARTMENT OF JUSTICE IRM ORGANIZATIONAL STRUCTURE LACKS THE FOCUS NECESSARY TO ENSURE PROGRAM EFFECTIVENESS.

Justice IRM is centralized within the Justice Management Division under the direction of the Assistant Attorney General for Administration, the Departmental Designated Senior Official for IRM. The Agency Overview section provides a detailed description of the nature of this office's organization.

Department-level IRM policy and oversight are scattered among various JMD organizations. Segments of IRM policy emanate from SPS, CTTS, LISS, and the Facilities and Administrative Services Staff. Several of these offices also have both operational and policy development responsibilities in the same functional areas. In the absence of separation of these duties, it is not clear how JMD can ensure an acceptable level of performance in either activity.

Another issue in the area of policy development is that of diffusion of responsibility. AIS, telecommunications, and records management are assigned to different offices. The level of communication among these offices is very limited, with most of it involving only the highest level officials. This diffusion has limited the cooperation needed for comprehensive and effective policy development.

Departmental oversight activities that focus on or that include IRM issues, are carried out by the Office of the Procurement Executive, the Office of the Inspector General, and a variety of other organizations both in and outside of JMD. IRM policy development organizations have minimal involvement in these oversight activities. As JMD organizations do not even regularly receive copies of the audit reports that affect their responsibilities, oversight effectiveness is compromised.

The Department of Justice has 22 components that have their own IRM organizations. However, these IRM organizations share no structural consistency. The Department has not established any guidelines regarding IRM organizational structure. Components have complete autonomy in this area. This autonomy and lack of central direction has led to inconsistent implementation of IRM

functions and reduced effectiveness in some component organization IRM programs.

Communication between and within the IRM organizations is limited to top management. The GSA review team found little evidence that analysts' shared information concerning program operations among themselves or with others outside their immediate office. One example of poor communication is the Department's handling of APRs and DPAs. Until recently CTTS was assigned to prepare APRs for submission to GSA and was the focal point for GSA's delegated authority. SPS has had concomitant responsibility for evaluating component organizations' AIS requests and recommending approval by the DSO. Lack of effective communication between SPS and CTTS has led to instances in which GSA received an APR for projects not yet approved by the Department's DSO. Correction of this situation is now in process. However, this correction was initiated in response to a negative audit finding received earlier this year.

RECOMMENDATION: JUSTICE SHOULD TAKE STEPS TO SEPARATE POLICY DEVELOPMENT AND OPERATIONAL RESPONSIBILITIES WHILE PROMOTING ESSENTIAL COMMUNICATION AMONG IRM ACTIVITIES.

The Department of Justice could increase IRM program efficiency through a few key refinements of its organizational structure. Justice should take the necessary steps to accomplish the following improvements in its IRM structure:

- Concentrate IRM policy development in a single organization. This will facilitate cohesion among policies for various IRM functional areas. It will promote a new level of collaboration and coordination between functional areas.

- Separate operational activity from policy development organizations. This will promote independence both for policy development and oversight.

- Promote opportunities for communication among various IRM functional organizations. While the existing high level communication is important, it should be strengthened through inclusion of various types of analysts. This change should result in improvements in all areas of Justice IRM.

By centralizing IRM policy within one office the Department will be able to identify gaps and overlaps between the functions and responsibilities being performed. It also will help ensure the Department's maximum efficient use of information and resources.

FINDING: DESPITE SIGNIFICANT STRIDES IN JUSTICE'S AIS STRATEGIC PLANNING PROGRAM, IMPORTANT ISSUES REMAIN TO BE ADDRESSED.

The Department has achieved significant milestones in its strategic planning process. Multi-year Departmental mission, specific goals, and strategic planning programs for acquiring information technology have been established. In addition, the planning process is tied to both the conduct of programs and the preparation of component organization and Departmental budgets.

The first Strategic Plan for Automatic Information Systems was published in September 1986. The May 1989 update was issued as an interim plan. The interim plan provided management and technical direction for component-specific AIS plans and identified new initiatives mandated by the Attorney General. In the last year, the Department has taken steps to improve and strengthen the strategic planning process. The DSO has undertaken to lay the foundation for converting the current plan from its traditional AIS acquisition focus to a broader IRM focus. The enhanced approach is to include newly legislated responsibilities, improve the performance of existing ones, and integrate and coordinate the IRM components.

Despite these achievements, planning issues remain to be addressed. One major area of concern is delay of plans and planning activities. The existing schedule for AIS strategic planning activities is based on the annual budget development. In support of this schedule, JMD established a deadline for component organizations to submit their plans and a deadline for issuance of the Departmental plan. Neither of the deadlines was met.

The primary cause of slippage in the AIS strategic planning schedule was delay in the budget process. Changes in the budget development schedule resulted in delayed completion of the component organizations' plans. Unavailability of component-level plans affected completion of the Department-level plan. Completion of the Department-level plan was further delayed because of difficulty in reaching consensus on aspects of telecommunications strategy. As a result of these factors, fourteen months elapsed between issuance of the Department's May 1989 interim AIS Strategic Plan and the July 1990 completion of a draft revised plan. At the time this report was completed, no final plan was available.

The Department now has in place an AIS strategic planning schedule that depends heavily on timely completion of the budget process. While the coordination of these two processes is desirable, the AIS planning program should be structured to accommodate delays in budget development while minimizing its own delays. Likewise, GSA is pleased to note that JMD seeks to ensure that the plan offer direction regarding the major issues

and projects. However, where consensus building results in significant delays, the utility of the plan is likely to be lost in its lateness.

RECOMMENDATION: THE DEPARTMENT SHOULD RESTRUCTURE ITS PLANNING SCHEDULE TO FACILITATE COMPLIANCE.

The Department should establish realistic schedules for submission of component organizations' strategic plans and for completion of the Departmental plan. This action will result in more dependable strategic plans that will, in turn, provide more useful direction to IRM throughout the Department.

FINDING: JUSTICE'S PROJECTS FOR EXPANDING THE IRM PROGRAM LACK ADEQUATE STAFFING.

While Justice's progress in AIS strategic planning is noteworthy, the limited AIS focus itself constitutes a problem. There is no existing planning document that incorporates the entire spectrum of IRM. In its latest draft AIS strategic plan, the Department has identified eleven new projects to be performed by SPS.

These projects, scheduled to be undertaken between 1990 and 1992, support the DSO's decision to broaden the planning focus from information technology acquisition to the entire spectrum of IRM. The draft objective that defines these eleven projects, however, indicates that no additional resources will be available to undertake this initiative and staff would only be assigned part-time.

This lack of resources indicates a lack of management support for the projects. It also denotes a lack of management concern about the importance of developing an IRM-wide perspective for planning and other information technology-related activities.

RECOMMENDATION: THE DEPARTMENT SHOULD ALLOCATE NECESSARY STAFF TO ACCOMPLISH ITS IRM GOALS AND OBJECTIVES.

In order to implement a viable IRM program the Department needs to allocate the necessary resources. JMD should determine first if the existing schedule for the eleven IRM projects is appropriate. When the correct schedule is completed, JMD should take the necessary steps to provide sufficient staff for prompt completion. Without the essential staff able to focus full-time on IRM goals, it is likely that the accomplishment of these objectives will be prolonged indefinitely.

FINDING: THE JUSTICE MANAGEMENT DIVISION HAS IMPLEMENTED OVERSIGHT, REVIEW, AND APPROVAL FOR AIS REQUESTS, BUT NEEDS TO REFINE ITS ANALYST REVIEW PRACTICES.

The Systems Policy Staff has primary responsibility for oversight, review, and approval of component organizations' AIS requests. In support of this responsibility, SPS analysts are assigned to evaluate AIS requests from specific component organizations. Their evaluation includes the subsequent assessment of consolidated acquisition lists, strategic plans, and budget submissions over $25,000.

SPS has two guides available to assist its analysts during these reviews. The documents are " A Checklist for AIS Review Process for AIS Acquisition Lists or Ad Hoc Request" (dated 1987) and "Procedures for the AIS Pre-acquisition Approval Process" (dated 1986). The Checklist is the SPS analysts' primary guide in their review of AIS requests. The procedural document was developed for use by the component organizations in their development of AIS requests. However, a Review Criteria section serves the SPS analysts as a documentation checklist.

In addition to SPS's own review, a variety of organizations contribute to an overall assessment of AIS requests. CTTS analysts use the Checklist to evaluate the telecommunications-related issues. LISS uses the Checklist to review AIS requests from a technical viewpoint. The Budget Staff also is involved in reviewing AIS requests.

SPS processing of each request is completed with approval by the Staff Director, Deputy Director, and/or Assistant Director. The DSO retains final review, approval and signature authority.

A review of 18 randomly selected AIS requests and related material revealed that overall SPS appears to perform a thorough analysis. Of these 18 cases, only three received immediate SPS approval. The remainder were given partial, conditional, or approval with contingencies. This sample of review results indicates that oversight of AIS requests is substantive. However, there is much that SPS could do to make the review process more efficient and effective.

In addition to the criteria described above, each analyst brings into the oversight function varying individual experience, knowledge, and practices. Each has developed his or her own methods for gathering and assessing information. For instance, one analyst uses computer spreadsheets to achieve an overall picture of an AIS plan and to assist in the analysis of the plan.

This diversity of methods has uncovered some very useful aids to analysis. As the SPS analysts vary greatly in their technical and analytical experience, it is unlikely that they will each

discover similarly effective tools. Even when analysts do uncover such tools on their own, SPS is losing valuable review time while each analyst pursues the search. The absence of an organized opportunity to share and evaluate individual ideas is depriving SPS of opportunities to improve overall effectiveness.

Separate findings below detail SPS's failure to avail itself of existing sources of information about the status of IRM at the various Bureaus and other component organizations. SPS management does not provide staff analysts with critical audit reports and similar sources of information from other Justice organizations. This failure all but ensures that SPS analysts will make their determinations and recommendations without key information.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD STANDARDIZE ITS AIS REVIEW PROGRAM PRACTICES.

The diversified review methods in use within SPS offer a potentially fruitful source of tools to standardize the AIS review practices. SPS should identify unique and unusual methods and analyze their effectiveness. Those tools that are proven effective should be shared with all SPS analysts and be made part of the standard operating procedure. In the future, SPS should provide an organized means for analysts to share their insights into the review process.

B. RESOURCES MANAGEMENT

FINDING: THE JUSTICE MANAGEMENT DIVISION PERFORMS NO ACTIVE ROLE IN THE DEPARTMENT'S IRM REVIEW PROGRAM.

Systems Policy Staff is responsible for guidance and oversight of the Department's activities under the Federal IRM Review Program. However, SPS provides little program guidance to the component organizations. SPS also does not perform Departmental analysis of the component organizations' review results. Finally, SPS performs no reviews of its own. Thus, the utility of the review program is extremely limited.

Justice's IRM review program consists primarily of dissemination of the Governmentwide guidance provided by GSA and compilation of reports submitted by each of the component organizations. One SPS analyst is responsible for the overall IRM review program. This individual develops the call letter, monitors component-level submissions to ensure that they include all required information, and compiles the review package for submission to GSA.

SPS analysis is limited to a cursory review to ensure that each component organization submits a report and has complied the data call. SPS does not evaluate submissions to assess the component-level IRM review programs. The SPS analysts assigned to work with specific component organizations do not use the review program submissions to inform their understanding of the current status of the individual IRM programs. Neither do they follow-up on recommendations to ensure completion of corrective actions.

Many of the larger Department's component organizations, including the Bureaus, have developed appropriate IRM review programs. However, smaller component organizations have been less effective in their attempts at self-review. These organizations appear to need additional guidance so that they can initiate more productive review programs. The inconsistent quality of review programs among the component organizations, the absence of meaningful Department-level analysis and follow-up, and the absence of Department-level reviews combine to deprive the Department of Justice of a truly useful IRM review program.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD ADOPT A MORE ACTIVE ROLE IN THE IRM REVIEW PROGRAM.

The Department of Justice IRM review program reflects a decentralized approach with a variety of review methods being used by the component organizations. SPS should develop comprehensive guidance to create a more consistent review effort. The successful review programs already in place in some component organizations would provide a foundation for developing this

guidance. Such guidance will provide additional benefits at all levels in the Department. It will provide some component organizations with opportunities to strengthen their review programs. The Department could improve its own oversight through the availability of consistent information about the status of the various IRM functional areas.

SPS also should develop internal procedures for its own contribution to the IRM review program. The office should perform its own reviews of component organization IRM programs or of selected functional areas across the Department. A more aggressive role in evaluating the component-level IRM review reports should provide the Department with valuable insight into the status of its overall IRM program. SPS should follow-up to ensure that component agencies complete implementation of review recommendations. These actions will increase the effectiveness of the IRM review program by ensuring that necessary improvements are accomplished.

FINDING: THE JUSTICE MANAGEMENT DIVISION DOES NOT MAKE FULL USE OF AVAILABLE REVIEW AND AUDIT RESOURCES.

Several Department of Justice organizations and outside oversight agencies perform audits or reviews that include varying amounts of information pertinent to Department or component-level IRM. Although these studies offer the opportunity for SPS to acquire a different perspective and a more complete picture of the component organizations' IRM operations, SPS does not take advantage of them. SPS analysts do not receive audit reports from either Justice organizations or other agencies.

While some of these reports do not focus on IRM issues directly, they do address elements of component organization success with IRM activities. Because of their various primary purposes, these audits include a wide variety of IRM issues. Some Inspector General audits focus on the component organizations' adherence to Federal and Departmental IRM regulations. System security reviews provide information on the level of protection provided on major computer systems containing sensitive information. Financial integrity reviews address financial management computer systems. The Office of the Procurement Executive's reports on Bureau procurement systems include findings about major information technology procurements and related procurement management issues.

Regular access to and use of these reports would provide SPS analysts with enhanced insight into IRM at the component organizations with which they work. It also would afford them more information on which to base critical Department-level decisions.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD ARRANGE FOR ITS ANALYSTS TO RECEIVE RELEVANT AUDITS REPORTS.

SPS ought to take steps to ensure that its analysts receive audit reports pertinent to their assignments. This information will amplify the analysts' appreciation of how well their assigned component organizations are performing various IRM activities. This improved understanding will enhance SPS's actions in both IRM planning and approval of individual projects.

FINDING: JUSTICE EFFORTS TO IMPLEMENT FTS 2000 SERVICE IN LIEU OF ITS PLANNED TELECOMMUNICATIONS NETWORK HAVE PROVEN SUCCESSFUL.

In the mid-1980's, the Department of Justice set out to procure its own telecommunications network. In support of this project, the Department sought delegated procurement authority from GSA in 1984. On March 22, 1989, GSA canceled the DPA. The reason for the withdrawal was conflict between the agency's program and the Federal Telecommunications System (FTS) 2000.

FTS 2000 implementation in the Department of Justice is handled by a project office with the Justice Telecommunications Service's Technical Services Branch. This office handles all FTS 2000 activity in the Department, and is the contact point for the various components. It coordinates with GSA, reviews requests from the components and the Department, and arranges through GSA for vendor services.

The implementation of FTS 2000 at the Department of Justice has progressed at a reasonable pace, experiencing no more than the usual problems associated with a major conversion. The FTS 2000 project manager indicated that day-to-day support from GSA has been acceptable. When asked to compare the planned implementation schedule for the Justice Telecommunications Network and the actual FTS 2000 implementation, the project manager indicated that the Department was ahead of schedule in providing services to its components.

FINDING: JUSTICE HAS INADEQUATE POLICY AND PROCEDURES IN PLACE TO ENSURE INTEGRATION AND COORDINATION OF ITS RADIO COMMUNICATIONS RESOURCES.

Justice component organizations operate radio communications programs with only minimal Department-level planning, management, and oversight. Several of the major component organizations operate extensive two-way radio systems in the United States and in foreign locations. These systems are inadequately managed at the Department level; component organization management also appears to be lax. Department oversight is insufficient in several areas. Departmental officials lack accurate knowledge of

the size, value, and growth rate of the radio systems. They do not have long range plans for them. While some sharing of contracts has occurred, the Department has no organized program for contract consolidation.

Officials of the Justice Telecommunications Service (JTS) estimate that the Department and its component organizations operate about 29,000 mobile and portable radios and over 4,000 fixed stations. These officials were not certain of expenditures to date in this area. Their estimates of the value of the installed base of radio hardware ranged as high as $200 million with estimated annual maintenance costs of about $30 million per year. However, these officials' knowledge of existing inventory did not include the percentage of the installed base located overseas. They were unable to identify the annual Departmental expenditures for radio system hardware. Their lack of knowledge in these areas would prevent even a minimal level of program oversight.

Justice's lack of planning for radio systems is a matter of great concern. Although the CTTS strategic plan mentions radios in an opening paragraph as one of the organization's responsibilities, it includes no further reference to radio systems. Inadequate planning is a problem in several areas of the program.

The nature of Justice Bureau missions has necessitated the acquisition of encrypted radios. JTS officials indicated that all of the Department's radio systems are being converted so that eventually all equipment will have the encryption feature. Existing Federal encryption standards have effectively limited these acquisitions to a single source. Because proprietary information is needed to perform maintenance, Justice is also limited to a single source for all encrypted radio maintenance.

While much of the installed base was purchased from a single vendor, anticipated changes in the encryption standard are expected to result in the need to change vendors. This change is likely to create extensive problems with incompatibility. The GSA review team found no evidence of planning to deal with this situation.

Several component organizations employ in-house maintenance shops and technicians in support of their radio systems. However, JTS officials were unable to say what services these facilities will be able to provide for a system employing only encrypted radios, given the proprietary nature of the encryption device. No planning documents addressing this situation were available for review.

Several Department of Justice component organizations use similar or identical radio equipment from the same vendor, yet there is

no evidence of attempts to consolidate those contracts Departmentwide.

While the problems described above focus on Departmental management issues, there also is cause for concern about the level and effectiveness of Bureau-level management. The GSA team evaluated the radio communications management program at DEA. In this case, Bureau-level IRM oversight of radio equipment and maintenance procurements was very limited.

DEA currently spends around $20 million per year on encrypted radio hardware, and several million more on maintenance. However, since DEA's IRM definition does not include radios, the IRM organization is not involved in decisions regarding radio acquisition. DEA's IRM officials were unable to answer questions about the systems, equipment, or the procurements.

Justice's radio system programs lack the direction and cohesion needed for efficient operation. This lack of management control and planning may result in long-term difficulties in essential operations. At the least, failure to develop and implement appropriate plans is likely to result in inefficient acquisitions and waste of critical resources.

RECOMMENDATION: THE DEPARTMENT OF JUSTICE SHOULD INTEGRATE RADIO COMMUNICATIONS TO ENSURE THAT IT IS SUBJECT TO ADEQUATE PLANNING, MANAGEMENT, AND OVERSIGHT.

Radio communications systems are mission critical to several Department of Justice component organizations. Radio hardware and maintenance constitute a major expenditure. The IRM organizations at both the Department and the component organizations should increase their level of awareness and oversight of these operations.

The Department should increase its oversight of component organizations' operation of radio communications equipment by requiring more comprehensive reporting by the components. For instance, JTS officials should know what the Departmentwide annual expenditures are for radio hardware and maintenance, how many in-house technicians are employed by the component organizations, and the status of long range plans in this area. JTS should also know in greater detail what radio communications operations are occurring on foreign soil, and the legality of those operations. JTS should also know specifically what other government agencies cooperate with Justice component organizations using encrypted radios, and the extent of those operations.

The Department should thoroughly investigate the pending new encryption standard for radios. Justice should incorporate the

results of this investigation in future IRM strategic plans, as well as in long range procurement planning for radio systems. A part of this planning exercise should be an effort to promote competition for this type of hardware. The Department also should take steps to promote consolidation of procurement contracts for radio communications hardware and maintenance.

FINDING: THE JUSTICE PROGRAM TO SUPPORT ELECTRONIC OFFICE ACCESSIBILITY FOR EMPLOYEES WITH DISABILITIES LACKS KEY ELEMENTS.

Justice has established Order 2830.4, Administrative Computer Support for Handicapped Employees (dated March 4, 1987). This directive requires establishment of a program for computer accommodation of disabled employees. This directive assigns various responsibilities to the Office of Personnel, the Office of Equal Employment Opportunity, and to JMD's Legal and Information Systems Staff.

In addition to its role in establishing a program, the Litigation and Information Systems Staff (LISS) is supposed to serve as a referral and resource center providing information to disabled employees and their managers. Additional LISS responsibilities include keeping abreast of new technologies and training opportunities, developing program policies and procedures, and representing the Department at committees and meetings.

Despite its wide range of responsibilities, LISS has accomplished very little. Program officials were able to cite action in a number of areas, but the scope of this activity has been extremely limited. For instance LISS has provided advice to facilitate accommodation of only two employees. LISS has identified only two contracts where reference for the disabled was made part of the request for proposals. LISS now provides briefings as part of the Department's quarterly training sessions; as this is a new function, LISS has provided only two such briefings. Additionally, LISS has coordinated with EEO to sponsor a vendors' demonstration of available equipment for management and disabled employees.

LISS has failed to carry out several of its responsibilities. The staff has not yet developed the policies and procedures called for by the program's basic order. LISS has not assigned an analyst to promote computer accommodation. This function is performed on an ad hoc basis by an analyst who is primarily responsible for the electronic mail program.

To date, LISS has adopted no active role in coordinating with other responsible organizations within the Department. By not seeking out managers of disabled employees or information on the number, location, or needs of disabled employees, LISS has undermined its ability to carry out its responsibilities.

LISS also has no direct knowledge of what was being done by the Bureaus or even knowledge of how many employees have disabilities and job functions that could be enhanced by information technology. LISS does send to Bureau heads and major components GSA's handbook "Managing End User Computing For Users With Disabilities." However, this is a long way from establishing a Departmental program with policies and procedures for the Bureaus and other major components to refer to and follow.

LISS is responsible for oversight of all procurement office automation contracts that are not in the mainframe category. LISS takes the position that it is up to management/requester to make this a part of a request for proposals; if accommodation is left out of a major procurement for office automation this is because management did not have a need to include it.

Justice is not carrying out its full responsibilities in providing office automation to employees with disabilities. This failure can only result in the inefficient use of manpower resources.

RECOMMENDATION: IRM OFFICIALS SHOULD TAKE STEPS TO ENSURE THAT THE PROGRAM FOR COMPUTER ACCOMMODATION OF EMPLOYEES WITH DISABILITIES IS FULLY IMPLEMENTED.

Justice has in place an Order that assigns appropriate responsibilities for establishing and carrying out an effective program for computer accommodation of disabled employees. The Department should take steps to ensure that this Order is carried out effectively and as soon as possible. At a minimum this action should include establishment of an effective oversight function that can ensure completion of assigned responsibilities.

FINDING: THE DEPARTMENTAL RECORDS MANAGEMENT STAFF DOES NOT PROVIDE OVERSIGHT FOR BUREAU PROGRAMS.

JMD's Facilities and Administration Staff is responsible for Departmentwide records management policy. This group has provided the necessary records management directives for the Department. These directives cover all of the major paper records management functions, as well as micrographics management.

Although the paper records management directives are comprehensive, they are not backed by any oversight activity. In discussions with the GSA review team, the Departmental records management staff said they do not become involved in what their Bureau counterparts are doing. In fact, their only ongoing

involvement with Bureaus is the dissemination of records management guidance.

The draft Records Management and Disposition Order gives specific responsibility for the review of the Department's records management and disposition programs to the records management staff in JMD. However, that staff's supervisor described oversight as the responsibility of the Office of the Inspector General. Catalogs of the 1987, 1988, and 1989 IRM-related audits indicate that the Inspector General did not perform any that addressed records management activities. The Inspector General's audit plans for 1990 also do not include any that address records management. The review team found no evidence that any Departmental organization performs reviews that focus on records management.

This lack of oversight leave the Department with no knowledge of whether its records management directives have been implemented. The Department also is without a mechanism for measuring success in any records management programs.

RECOMMENDATION: DEPARTMENTAL OFFICIALS SHOULD ENSURE COMPLIANCE WITH FEDERAL AND DEPARTMENTAL RECORDS MANAGEMENT REGULATIONS BY CONDUCTING PERIODIC RECORDS MANAGEMENT REVIEWS.

Justice senior management should assign responsibility for records management oversight and provide the necessary authority and resources to ensure compliance with Federal and Departmental regulations. The responsible organization should perform periodic reviews of records management activities or actively participate in the Bureaus' reviews.

C. ACQUISITION MANAGEMENT

FINDING: EXTENSIVE DEPARTMENTAL OVERSIGHT OF PROCUREMENT ACTIVITY HAS NOT RESULTED IN SIGNIFICANT IMPROVEMENT.

Information technology acquisitions within the Department of Justice are conducted independently by each Bureau. JMD's Procurement Services Staff conducts such acquisitions for Departmental Offices, Boards, and Divisions. Despite the autonomy these organizations enjoy, they do receive oversight, both of individual projects and of their overall procurement programs.

Departmental component organizations are required to obtain pre-acquisition approval from the DSO for any AIS-related equipment, software, or services for which the anticipated cost is projected to exceed $25,000. The FBI enjoys a higher threshold of $250,000 before such approval is required for their ADP acquisitions. A detailed description of this approval process is contained in a separate finding above.

The Department's Procurement Executive is responsible for acquisition policy, compliance, and review. Prior to contract award, the Office of the Procurement Executive reviews and approves contract actions for regulatory compliance. Pre-award review includes determination of whether any necessary DPA was obtained, that internal AIS approval has been obtained, and that the FIRMR and FAR have been complied with. These reviews apply to competitive procurements over $100,000 and to less than full and open procurements over $50,000. The FBI has a total exemption from this review process.

The Office of the Procurement Executive also performs procurement system reviews of Justice component organizations. These reviews are conducted to measure the efficiency and effectiveness of the procurement function, organizational structure, policies, procedures and management of the Department's procurement programs. Order 2300.7, "Evaluation and Certification of the Department's Procurement System," (updated November 8, 1989) establishes criteria and procedures for the Procurement Executive's evaluation and certification of the Department's procurement system.

This review program is comprehensive and theoretically should promote a high quality of procurement management. However, despite approximately nine years of pre-award and procurement system reviews, the Procurement Executive has not been able to increase authorities to the Departmental components for the acquisition and management of information resources. According to responsible officials, this is because both types of procurement reviews indicate component organization failure to improve. The lack of improvement by the component organizations,

coupled with the repetitive nature of negative findings, reflects ineffectiveness in the review program.

The weak link in the review process appears to be in the lack of follow-up to ensure that corrective actions have been taken. The GSA review team discovered no reliable mechanism by which the Office of the Procurement Executive can ensure that its recommendations are implemented. The ineffectiveness of these review activities is of concern here as many of the procurement activities involve information technology acquisitions.

RECOMMENDATION: JUSTICE PROCUREMENT OFFICIALS MUST PLACE A HIGH PRIORITY ON PROMPT FOLLOW-UP TO ENSURE RECOMMENDATIONS ARE IMPLEMENTED.

Senior management should institute procedures that will promote improved procurement management throughout the Department and deter the repetitive nature of negative review findings. One method of accomplishing this would be to place a high priority on follow-up of negative procurement review findings. Such follow-up should not wait three years for a subsequent review, but should take the form of special inquiries as soon as action can be reasonably expected.

These actions should improve overall effectiveness of the procurement management reviews. By increasing the review activities, Justice can facilitate overall improvement in its procurement management program.

FINDING: JUSTICE DOES NOT ADHERE TO EXISTING REQUIREMENTS FOR ADVANCE PROCUREMENT PLANNING.

The Department's Order 2300.5A, "Advance Procurement Planning," (dated September 19, 1986), establishes procedures for advance procurement planning. This order requires that component organizations complete their acquisition plans by January 15th prior to each budget year. It also stipulates the roles and responsibilities of the Program Planning Coordinator, the Chief Contracting Official, and the component organization's Competition Advocates.

The intent of this order is to allow ample time for conducting competitive solicitations and to avoid allowing procurements to become unnecessarily urgent, thereby restricting competition. The order also provides the opportunity to identify identical or like requirements that can be combined under one solicitation. It also facilitates action to deal with major projects by helping procurement offices anticipate workload.

The review team noted in investigation of various elements of information technology procurement management that Justice officials ascribed ongoing problems to the frequency of emergency procurements. These Department officials indicated that too frequently requirements are identified as emergencies only because responsible managers failed to perform mandatory planning. Review of DEA acquisition of encrypted two-way radio equipment over an eight-year period reveals that, although an advance procurement plan was prepared for the current contract, in past years, plans have either not been prepared at all, or have been completed more than a year late.

This observation is consistent with recent audits performed by the Inspector General, the House Appropriations Committee, and the Office of the Procurement Executive. Their reports identified many instances in which the advance procurement planning documentation was not completed when it should have been or was not completed at all. In some instances, their review of advance procurement plans disclosed that required forms were prepared less than a month before the contracts were awarded.

Lack of planning and untimely preparation of advance procurement planning documentation negates the intended purpose of Department of Justice Order 2300.5A. It also promotes inefficient and costly procurements as competition and consolidation are rendered impractical.

RECOMMENDATION: JUSTICE OFFICIALS SHOULD ENSURE COMPONENT ORGANIZATION ADHERENCE TO ADVANCE PROCUREMENT PLANNING.

Stricter enforcement of Justice Order 2300.5A by the Department would ensure that responsible officials finalize advance procurement planning as they are required to do. Such action will promote more efficient and cost-effective procurements. It will promote opportunities for appropriate officials to identify and combine similar requirements into consolidated procurements. It also will ensure that the procurement officials have ample time to scrutinize program offices' documentation, develop their determinations, and process the procurement efficiently.

FINDING: INADEQUATE ADVANCE PROCUREMENT PLANNING HAS CONTRIBUTED TO HIGH LEVELS OF NON-COMPETITIVE PROCUREMENT.

The Office of the Procurement Executive provided the GSA review team with statistics on the percentage of competitive versus non-competitive contracts awarded on information technology solicitations for fiscal years 1986-1988. In terms of number of procurement actions, these statistics show non-competitive contract actions averaging 40 percent of the annual information technology activity. In terms of dollars spent, an average of 33

percent was directed towards non-competitive information technology acquisitions.

When presented with these statistics, IRM and procurement officials evidenced a variety of reactions, ranging from surprise to dismay. These officials generally were unaware of the number of non-competitive actions. However, some suggested that the Justice's requirement to acquire encrypted two-way radios from a single source was the primary cause of the concentration of money on non-competitive procurements.

While officials did indicate that radio and related purchases represent a major portion of the non-competitive dollars expended, they were unable to provide actual Departmentwide figures to support this. However, regardless of the total dollars expended for two-way radios, statistics continue to reflect a high percentage of non-competitive information technology procurement actions over a three-year period. Even a liberal estimate of the effect of the radio procurements leaves a substantial level of non-competitive activity unexplained. None of the officials contacted during the review provided any indication of existing or proposed efforts to improve the level of competition for information technology procurements.

RECOMMENDATION: DEPARTMENT OFFICIALS MUST INITIATE THE NECESSARY ACTIONS TO IMPROVE THE LEVEL OF FULL AND OPEN COMPETITION AND TO PROMOTE EFFECTIVE AND ECONOMICAL INFORMATION TECHNOLOGY PROCUREMENTS.

Departmental officials should act as soon as possible to inform themselves of the nature and extent of non-competitive procurement of information technology. They should use this information to develop a program for improving Departmentwide performance.

The lack of officials performing their responsibilities for planning contributes significantly to contracts being entered into with less than full and open competition. Better planning could eliminate most last minute requests and open up more competition. Stricter enforcement of advanced procurement planning by the Department is required to break down the barriers to full and open competition.

Effective promotion of full and open competition for information technology should result in enhanced efficiency and cost-effectiveness throughout the IRM program.

FINDING: INFORMATION TECHNOLOGY PROCUREMENTS REVEAL A PATTERN OF SIGNIFICANT SCHEDULE SLIPPAGE.

The House Appropriations Committee recently completed an audit report on Justice Information Resource Management. It points out that, despite the pre-award review, ADP hardware and software procurements within the Department and its components have a record of slippage, vendor protests, cancellations and court judgments over the last 10 years. During the same period the Office of Management and Budget, the General Accounting Office, the General Services Administration, and Congress have intervened in, stopped, or criticized various Departmental hardware and software procurements. The Committee's report cited various specific examples of troubled procurements conducted by various Justice component organizations.

The GSA review team's findings in the Federal Bureau of Investigation's Comprehensive Advanced Systems Expansion (CASE) Project are consistent with the findings of the Committee's report. CASE procurement (detailed in Appendix B) is the FBI long-range automation plan to support its overall mission areas. GSA noted significant slippage in the acquisition schedule provided in the Department's September 9, 1987, APR which described an urgent requirement for ADP resources for fiscal years 1987 and 1988. Although the APR indicated urgency, the FBI has yet to acquire many of the items for which authority was delegated in 1987. Moreover, of the total delegated amount, only 18 percent has been expended.

Failure to meet schedules is often beyond the control of project personnel. However, it is rare that over such an extended period conscientious project managers cannot reassess their plans and develop necessary replacements. In this case, FBI appears not to have accomplished this. FBI IRM officials stated that they were working on a new APR that would address changes in the CASE schedule and present an up-to-date project plan. The GSA review team was unable to acquire a copy of the draft APR, nor were they able to discover the date by which FBI hoped to complete their work on it. As of the writing of this report, no such APR had been submitted to GSA.

An additional example that indicates schedule slippage due to inadequate management is the purchase of central computer processing units for the Justice Computer Service. This case study indicates that the Department of Justice procurement planning was inadequate. A vast difference occurred between the estimated cost specified in the APR and the actual cost of the contract; the actual cost was 1/100th of the estimate.

CTTS officials explained that this difference was due to a variety of factors. The APR cost estimate was based on actual advertized costs of the desired equipment rather than on any

estimate of discounts to be attained. Also, Justice's estimates were based on using a more expensive CPU (IBM 3090-300S) rather than the actual model that was obtained. The Department's estimates included separate cost factors for maintenance. Finally, the winning vendor's bid was extremely low compared to those of the other bidders.

The frequency of negative audit findings in this area, combined with the cases developed during the GSA review, indicates that the Department and its component organizations are unable to develop and execute reasonable information technology procurement plans.

RECOMMENDATION: THE DEPARTMENT SHOULD DIRECT ITS COMPONENT ORGANIZATIONS EXPERIENCING MAJOR SCHEDULE SLIPPAGE TO REEVALUATE THEIR INFORMATION TECHNOLOGY NEEDS AND ACQUISITION STRATEGIES.

As discussed earlier in the report, too frequently requirements are identified as emergencies only because responsible managers failed to perform mandatory planning. These urgent requirements generally result in restricting competition. The Department should direct the component organizations experiencing significant schedule slippage to reevaluate their information technology needs and acquisition strategies. This will ensure a more accurate reflection of actual programmatic needs, and it will ensure that those needs are met efficiently, effectively, and promptly.

FINDING: THE FEDERAL BUREAU OF INVESTIGATION HAS NOT MANAGED ITS PROCUREMENT RECORDS EFFECTIVELY.

The FBI procurement files reviewed by GSA appeared to be complete; however, with the present method of record keeping, file integrity can only be considered marginal. These records are kept in a variety of locations, depending on the office that handled the procurement. Some procurement files are split, with certain portions kept with one of the procurement units and other parts, such as technical standards, kept in the office that prepared them. There is a high probability that portions of procurement files may eventually be permanently separated from the remainder of the file.

The GSA review team found no index of procurement files and their location. The team noted that there is no way to identify which DPA a file is related to. Individual procurement files are not assembled in any uniform way. Some key documents were not dated; others were maintained in the file only as unsigned drafts; still others were available in multiple versions with no indication as to which was the final. Some documents received from vendors were not date-stamped to indicate when they were received; others

(such as unit price lists) were not marked to indicate whether they were part of a best and final offer or other submission.

An August 1989 review by Justice's Procurement Executive noted problems with FBI's handling of procurement records. This report indicated that none of the files reviewed showed compliance with the uniform file format requirements of an existing Departmental regulation. This report also indicated that a number of files were incomplete, and did not contain evidence of required compliance with a variety of Government regulations. The Procurement Executive's report recommended maintaining the contract filing system in a manner that assures prompt and accurate filing, and ensures ready access.

The time required by the FBI to present procurement records for review greatly limited the number which could be reviewed. GSA's entrance letter for the Justice review listed several procurement cases to be evaluated; it also specified a variety of documents to be provided during pre-review or (if they were quite voluminous) to be made available to GSA's team during the on-site portion of the review. Despite this warning several months in advance of the review, FBI did not make the requested files available until after multiple visits and telephone conversations during on-site.

The present system of procurement records management causes an undue work load on the FBI staff in preparation for an audit, and seems likely to have a negative effect on their normal duties. The combination of slow response and the specific documentation problems described above indicate that FBI has not yet developed a reliable procurement records management procedure.

RECOMMENDATION: THE FEDERAL BUREAU OF INVESTIGATION SHOULD INSTITUTE A SYSTEM FOR MANAGING PROCUREMENT RECORDS THAT WILL ENSURE RAPID ACCESS.

All FBI procurement files should be readily accessible. Files should include indices identifying locations of key documents and each should identify the associated DPA. Vendor submissions should be date stamped and filed as a unit.

By instituting a uniform records management system for procurement files, the FBI will increase the integrity of the files, and will enhance its ability to manage procurements effectively. In addition, such an improvement in procurement records management will reduce the Bureau's workload for audit interfaces. Audits are intended to produce benefits for an agency, therefore by making its procurement files quickly and easily available for audit agencies, the FBI can facilitate thoroughness and fairness in audit proceedings, increasing the usefulness of the findings.

APPENDIX A

ACRONYMS AND ABBREVIATIONS

ADP	Automatic Data Processing
AIS	Automated Information System
APR	Agency Procurement Request
CTTS	Computer Technology and Telecommunications Staff
DEA	Drug Enforcement Agency
DPA	Delegation of Procurement Authority
DSO	Designated Senior Official for IRM
FIRMR	Federal Information Resources Management Regulation
FTS	Federal Telecommunications Service
GSA	General Services Administration
IRM	Information Resources Management
JMD	Justice Management Division
JTS	Justice Telecommunications Service
LISS	Litigation and Information Systems Staff
SPS	Systems Policy Staff

APPENDIX B

CASE SUMMARY: Central Computer Processing Units for the Justice Computer Service

KMA-87-0220
KMA-87-0220(A)
KMA-87-0220(B)

Justice submitted an APR on February 17, 1987, for computers to replace the currently installed Amdahl 5870s at the Justice Computer Center. GSA granted a DPA on April 7, 1987. The proposed competitive solicitation was to include a five-year systems life for hardware and maintenance costs for the two Justice Data Centers.

The Department did not exercise the DPA. CTTS officials stated that this was due to the need to address other factors such as developing a contingency plan, shifting workload from Washington to Dallas, and obtaining a secure site for DEA.

However, while these activities were being completed, additional processors were needed to satisfy Justice's growing data processing requirements. Justice sent a new APR to GSA on May 23, 1988, for this purpose. The new APR addressed purchase of two processors with a systems life of three years to supplement the currently installed base of Amdahl 5870 computers. GSA granted a modification to the DPA on June 6, 1988.

Justice also elected not to exercise the amended DPA. This time the decision not to pursue a contract was based on a reassessment of the need for new hardware. The current applications were saturating the existing system and Justice lacked adequate authority with the amended DPA to take care the of upcoming requirements. Therefore, Justice sent another APR to GSA on August 24, 1988. This request cited Justice's additional anticipated workload growth based on the increasing emphasis of the President and the Congress in the areas of law enforcement, immigration, and criminal prosecution. It specified the need for two processors, with an option for two additional ones, to satisfy the increasing demand for processing power through fiscal year 1992. GSA granted a new amendment on September 22, 1988.

The planned procurement included a competitive solicitation for a straight lease, systems life of the contract not to exceed 36 months from the date of installation of the first system acceptance. Justice awarded a contract on February 28, 1989, for two IBM 3090-400E's with an option for two additional units. Maintenance, software, documentation, training, transportation, and installation were provided under this contract at no

additional charge. All four processors were installed at the Justice Computer Service installation at Rockville, Maryland, in June 1989, before the deadline.

Documentation available in the contract file included the requirements analysis, cost analysis, performance evaluation, and the software conversion study. All documentation met FIRMR requirements.

CASE SUMMARY: FBI Comprehensive Advanced Systems Expansion

KMA-87-0435

On September 9, 1987, the Department of Justice submitted an APR for the FBI's Comprehensive Advanced Systems Expansion (CASE). This APR included all of the Bureau's requirements for automation to support all of its mission areas including investigative, intelligence, administration, law enforcement and developmental initiatives. The APR was to cover a 12 year life cycle with a cost of nearly $2 billion. GSA did not grant that request. After extensive discussion with Justice, GSA did grant a DPA on September 22, 1987, in response to Justice's reduced APR covering the Bureau's needs for fiscal years 1987 and 1988.

Having received the DPA, the FBI has conducted individual procurements for the various resources required. A variety of FBI organizations have administered CASE procurements. The Procurement Team has handled small purchase procurement exclusively, while doing only the preparation work on large procurements. The actual contracting for the large procurements is completed by the Contracting Unit. Still other procurements have been handled almost exclusively by the requesting entity. Each of these procurement units keeps its own records and files, so there is no central location for procurement files.

GSA's review focused on a single CASE procurement for ADP equipment replacement. FBI IRM officials were able to present the file only after significant delay. The file was complete, containing the proper documents, signatures, and information. Documentation in the file indicated that FBI complied with FIRMR. However, GSA noted one interesting oversight in the file: there was no indication anywhere in the file that this contract was considered part of CASE, nor was there any reference to the DPA.

Although CASE represents much of FBI's IRM plan for the foreseeable future, the program has not been managed in a cohesive manner. For instance, periodic reports to the Bureau's Senior IRM Manager have not indicated which procurement activities were covered by CASE. The situation noted in the CASE procurement given detailed review, that no file notation

indicated that the action was part of CASE, appeared to be standard procedure. In short, GSA noted that FBI management did not have, and was not in a position to acquire, basic information about progress in the CASE program. While FBI officials did assure the review team that they are instituting modifications to their procedures to allow for cohesive CASE program management, these improvements have been slow in coming.

To date, the FBI has not completed the procurements included in the DPA. The schedule has slipped significantly, due to budget problems and other factors. However, the FBI has not notified GSA of any schedule slippage or requirement changes. Thus, the FBI has failed to carry out it's responsibilities in notifying GSA of material changes as required by the DPA.

CASE SUMMARY: FBI Intelligent Work Stations

KMA-86-0061

The Agency Procurement Request (APR) was submitted to the General Services Administration (GSA) in 1986. This request was for the purpose of acquiring 8,015 tempest-certified intelligent work stations, software, peripherals, and maintenance. The estimated expenditure was $134 million over 60 months. This equipment was to support the FBI Automated Information Management Systems in the field and at FBI Headquarters.

The APR specified that the procurement would be conducted on a fully competitive basis. The Commerce Business Daily synopsis appeared on April 30, 1987, with approximately 100 vendors requesting further information. Of these, five vendors submitted proposals. The Administrative Services Division's Contract Review Unit conducted the procurement, awarding a contract on July 10, 1987. Two vendors protested the procurement, but withdrew their protests after reaching a settlement with the FBI.

Review of the files indicated that the FBI completed this procurement in a reasonable amount of time, in compliance with FIRMR and with full and open competition. However, the review team noticed omissions from the file that would complicate proper management. The file did not indicate the DPA under which the procurement was executed. Copies of the protests were in the file, but the date of and reason for withdrawal were omitted.

FBI officials required several days to provide the file, explaining that procurement files are quite large and located in a number of offices. According to the FBI officials contacted, the location of a procurement file depends on type and size of the contract; in some instances parts of the contract are not kept together.

APPENDIX C

DEPARTMENT OF JUSTICE RESPONSE

APPENDIX D

GSA COMMENTS

[The following document represents the Department of Justice's response to the September 21, 1990, GSA report:]

U.S. Department of Justice

Washington, D.C. 20530

DEC 03 1990

Mr. Francis A. McDonough
Assistant Commissioner for Federal
Information Resources Management
General Services Administration
Washington, DC 20405

Dear Mr. McDonough:

This is in response to your September 21, 1990, letter enclosing the draft report generated by the recent GSA Information Resources Procurement and Management Review of the Department of Justice.

While I agree with your observation that the Department of Justice has achieved important accomplishments in information resources management (IRM), I do not necessarily agree with all of the purported findings. The report, however, comes at a most appropriate time for the Department; a time when we have just created the position of Deputy Assistant Attorney General for Information Resources Management (DAAG/IRM) and restructured the Justice Management Division to create a unified and cohesive IRM program under that DAAG. This change and the findings of the draft report are addressed in the enclosed comments.

The Department looks forward to working with your staff in the near future, not only to improve the IRM program's level of integration and overall effectiveness, but to demonstrate how broader interpretations of IRM can be applied in a complex programmatic environment.

Sincerely,

Harry H. Flickinger
Assistant Attorney General
for Administration

Enclosure

COMMENTS OF THE DEPARTMENT OF JUSTICE ON THE GENERAL SERVICES ADMINISTRATION'S MAJOR FINDINGS AND RECOMMENDATIONS BASED ON THEIR INFORMATION RESOURCES PROCUREMENT AND MANAGEMENT REVIEW.

A. IRM ORGANIZATION AND PLANNING

FINDING: THE DEPARTMENT OF JUSTICE IRM ORGANIZATIONAL STRUCTURE LACKS THE FOCUS NECESSARY TO ENSURE PROGRAM EFFECTIVENESS.

RECOMMENDATION: JUSTICE SHOULD TAKE STEPS TO SEPARATE POLICY DEVELOPMENT AND OPERATIONAL RESPONSIBILITIES WHILE PROMOTING ESSENTIAL COMMUNICATIONS AMONG IRM ACTIVITIES.

Effective November 4, 1990, the position of Deputy Assistant Attorney General, Information Resources Management (DAAG/IRM), was created. The DAAG/IRM answers directly to the Assistant Attorney General for Administration who also serves as the Designated Senior Official for the Department. This new position will focus the efforts of all IRM related staffs on a day-to-day basis. As a part of the resultant reorganization, the following staffs and program areas now come under that IRM position: the Systems Policy Staff; the Computer Services Staff; the Telecommunications Services Staff; and, the Legal and Information Systems Staff. Additional changes and staff additions are currently being considered. This reorganization will allow the focus necessary to ensure program effectiveness and promote cohesiveness in the Department's IRM policy and oversight. For example, all policy making functions are now assigned to the Systems Policy Staff whereas the remaining IRM staffs will have only operational roles.

The Department is also currently enhancing it's existing IRM program to establish management policies and practices throughout the Department that support the efficient and effective management of IRM resources. To support this initiative, an IRM objective has been incorporated into the Department's existing Strategic AIS Plan. This objective, "Enhancement of DOJ Information Resources Management Program," will provide the Department and departmental components with a strategic overview of overall departmental IRM goals and objectives, thus providing departmental IRM managers with the necessary strategic guidance and direction to support and, as applicable, integrate established departmental IRM programs and activities. This project will provide a unifying influence for resources that are concerned with the creation, handling, storage, retrieval, and distribution of information with increasing emphasis on information management, standards, security, and the integration of records management and information privacy.

The Assistant Attorney General for Administration (AAG/A), who reports directly to the Attorney General (AG), serves as the Department's Senior IRM Official. Under the direction and leadership of the AG, the AAG/A oversees all IRM related

activities within the Department, including technology, standards, records management, planning, budget, procurement, security, etc. To promote efficiency and effectiveness of the Department's IRM activities and functions, the AAG/A is now supported by the DAAG/IRM, who is supported by various staffs and organizational entities within the Justice Management Division (JMD). This management approach provides the DAAG/IRM and the AAG/A with the authority and controls necessary to efficiently support and manage the IRM program within the Department.

FINDING: DESPITE SIGNIFICANT STRIDES IN JUSTICE'S AIS STRATEGIC PLANNING PROGRAM, IMPORTANT ISSUES REMAIN TO BE ADDRESSED.

RECOMMENDATION: THE DEPARTMENT SHOULD RESTRUCTURE ITS PLANNING SCHEDULE TO FACILITATE COMPLIANCE.

The departmental planning schedule is a planning model and as such, vagaries of the Federal budget process may affect the actual planning schedule. Nonetheless, budgeting and planning for IRM are closely integrated and achieve the goals of the Paperwork Reduction Act. To wit, the Department has developed, established, and institutionalized an effective and efficient IRM/AIS management program which is now further enhanced by the establishment of the DAAG/IRM position. This program provides the Department with the necessary organizational framework and policies/procedures to effectively manage and maintain the Department's IRM activities.

The following describes the Department's IRM management program and structure and provides historical perspective regarding the establishment and continued evolution of this program--evolution which continues.

With the evolution of technology within the Department in the early 1980's, along with the anticipated expenditures to be allocated to support the advancement of technology, the primary focus of the Department's IRM management program was targeted toward the planning and management of automated information systems (AIS). Under the direction of the AAG/A and through the support of the Systems Policy Staff (SPS), Justice Management Division, the Department developed and established a highly structured, departmentwide IRM/AIS management program. This program included the issuance of "The Department of Justice Strategic Plan for Automated Information Systems." This plan identified planning assumptions and related goals, strategies and objectives which provided the management and technical context within which the departmental component plans must be developed. The departmental plan reflects broad policy guidance from the AG,

the Administration, and the Congress; considers central management agencies' policy and direction; and, identifies new and continuing initiatives mandated by the AG.

To promote the management of AIS activities within the Department and to ensure compliance with regulatory requirements and adherence to departmental goals and objectives, various IRM policies, procedures, and guidelines have been established. These policies and related procedures mandate formal AIS planning and Department-level reviews of components' plans and associated documents, including AIS budget requests and AIS resource acquisition requirements. Under the aegis of Order DOJ 2830.1D, "Automated Information Systems Policies," the AAG/A is responsible for the review and approval of departmental components' AIS plans consisting of both strategic and tactical sections. Tactical plans are subject to annual update and subsequent approval by the AAG/A to verify adherence to the Departmentwide Strategic Plan and compliance with Federal and departmental regulations, policies and standards. In addition, the AAG/A approves the acquisition of AIS resources exceeding a $25,000 systems life threshold, unless a higher pre-acquisition approval has been granted. Detailed planning and pre-acquisition approval procedures and guidelines have been established and institutionalized throughout the Department.

The Department of Justice has and continues to support and enforce an integrated approach to managing IRM/AIS. For example, the SPS plays a very active role in the review of components' AIS budget requests/documents. The Office of Management and Budget (OMB) Circular A-11, 43 Exhibits, "Reports of Information Technology Systems," are prepared on a system-by-system basis and are reviewed to ensure consistency with AIS plans and related budgetary documents. In addition, SPS prepares formal analyses and issue papers for the Department's Budget Staff regarding components' AIS budget requests. Recommendations and issues are presented during departmental resource management hearings which are conducted by the AG. The SPS also works closely with the Department's Security Staff to support compliance with and implementation of the Computer Security Act of 1987.

Overall, the Department has allocated it's resources and energy to support the development of a strong and successful IRM/AIS management program. The establishment of the DAAG/IRM position is a continuing step. Key areas of emphasis have been devoted to the management of technology, including the planning, budgeting, security, and standards aspects of AIS. With the continuous changes of technology and the evolution of IRM, the Department has and will continue to expand its management and planning programs to include broader policies and procedures regarding IRM-related issues and requirements.

FINDING: JUSTICE'S PROJECTS FOR EXPANDING THE IRM PROGRAM LACK ADEQUATE STAFFING.

RECOMMENDATION: THE DEPARTMENT SHOULD ALLOCATE NECESSARY STAFF TO ACCOMPLISH ITS IRM GOALS AND OBJECTIVES.

As indicated above, creation of the DAAG/IRM position and the resultant reorganization will allow for the necessary staff to accomplish IRM goals and objectives, given current fiscal and programmatic constraints, using a proposed approach to devote applicable resources over a period of time. A concentrated effort would result in permanently assigned personnel with slack time and wasted or idle resources. The planned approach will allow a wider and better utilization over the life of the project. Also, the DAAG/IRM should be in a favorable position to reallocate resources under his jurisdiction more easily than under the previous organizational structure.

FINDING: THE JUSTICE MANAGEMENT DIVISION HAS IMPLEMENTED OVERSIGHT, REVIEW, AND APPROVAL FOR AIS REQUESTS, BUT NEEDS TO REFINE ITS ANALYST REVIEW PRACTICES.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD STANDARDIZE ITS AIS REVIEW PROGRAM PRACTICES.

The GSA statement that "the level of communication is very limited, with most of it involving only the highest level officials," is inaccurate. There is constant communication between the SPS analysts and their component accounts, as well as analyst-to-analyst. Also, there is continuous staff level discussion and communication among IRM staffs in reviewing components' budgets, acquisition plans and tactical/strategic plans. A few examples of coordination on other than "the highest level," are: (1) Staff level coordination in updating the Strategic AIS Plan objectives, particularly the objectives on telecommunications, human resources management information system, financial management system, uniform office automation, and case management; (2) Coordination with members of various staffs when AIS requests significantly effect departmental telecommunications or the Justice Data Centers; and, (3) The attendance of SPS analysts at all meetings between their assigned component "account", US Sprint, and the JMD FTS 2000 Program Management Office. These meetings are official and determine the type of FTS 2000 services a component will use, as well as set schedules for implementation or transition. Additionally, GSA's recommendation that JMD needs to refine its analyst review practices is not based on a clear understanding of what the review practices actually are. To wit, each analyst adheres to

basic management techniques and controls administered by the management officials of the SPS. These techniques and controls are then adapted by each analyst as required by the diverse missions of the component accounts. Rather than "hardfast" guidelines, this direction is meant to encourage the necessary adaptability. These techniques and controls undergo continuous shaping and redefinment as needed. Periodic staff meetings and individual meetings between analysts allow for an interchange of these refinements, resulting in cognizant analyst preparation and knowledge. The report's implication that every analyst should use an automated spread sheet -- developed for a specific purpose/"account" -- ignores the diverse nature of the various "account" organization. Additionally, and perhaps more importantly, all analytical products are reviewed by the SPS management structure for consistency, accuracy and programmatic implication.

B. RESOURCES MANAGEMENT

FINDING: THE JUSTICE MANAGEMENT DIVISION PERFORMS NO ACTIVE ROLE IN THE DEPARTMENT'S IRM REVIEW PROGRAM.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD ADOPT A MORE ACTIVE ROLE IN THE IRM REVIEW PROGRAM.

The Department employs the annual IRM Review Report as an aid in making decisions about requests from departmental components for the acquisition of AIS resources. IRM analysts responsible for making recommendations about these requests compare relevant reviews with AIS documentation to determine consistency and to gain more insight about the request. Although this is an informal procedure, it is typical of the many methods used by analysts to obtain more information about a request in the process of evaluating it.

During Fiscal Year 1990, the Department planned and executed 39 highly productive IRM reviews, primarily in the areas of security, end user computing, information management, ADP management, and major information systems. For example, the Department IRM Office reviewed the computer security plan for the Department's Dallas data center and identified areas where the plan is not yet fully implemented. The Department IRM office also directed a comprehensive evaluation of the El Paso Intelligence Center (EPIC), the multi-agency center for receipt, storage, analysis, and retrieval of drug information used to support the Nation's war on drugs. The result of the review is a blueprint for action at the EPIC to better perform its mission.

The FY 1990 IRM review effort provided the Department with needed information about the quality of information system service, various types of security risks within application system data bases, and the nature of IRM training requirements. For example, reviews performed by the Bureau of Prisons (BOP) and the Office of Justice Programs (OJP) identified the need for user training and the need to improve the operation of application systems to provide better mission support. In regard to computer security, the Immigration and Naturalization Service (INS) performed reviews which provided valuable data about the handling of National Security Information and the requirements for developing a disaster plan for a particular computer site. In addition, the Federal Bureau of Investigation (FBI) performed two reviews to determine the accuracy of data records in a critical information system. The resultant information permitted the FBI to take appropriate management action to improve data quality.

The Department is experiencing dynamic growth in the development of microcomputer systems and networks; reviews by various components furnished valuable information on user training needs for new and existing computer applications. While review information is useful in solving specific information management problems, it is equally valuable as an aid at a departmental level in AIS planning and budgeting inasmuch as problems discovered in a review can often be the justification and motivation for system redesign and enhancement as well as other departmental level actions.

It is important to note that the Department of Justice is in full compliance with Section 3506 of the Paperwork Reduction Act as a result of the mature AIS planning and approval process in effect, as well as the active IRM review program which has been developed over the past four years. Information management activities are carried out according to Federal regulations and the guidelines provided by the Office of Management and Budget. An inventory of major systems is maintained and IRM activities are periodically reviewed, with formal IRM reviews and the continuing review of system development proposals by the Department IRM office serving to eliminate unnecessary duplication. Many of the IRM methods developed by the Department's IRM office have been informally recommended to other agencies by the Office of Management and Budget and by the National Institute of Standards and Technology. In fact, GSA itself referred the Department of Health and Human Services to the Department of Justice as an example of an effective information resources management program.

The Department IRM program has been strengthened by the recent reorganization, addressed earlier in these comments, by which all significant IRM functions report to the DAAG/IRM. This change will improve oversight of the review function through better

coordination with departmental and component-level IRM managers. It is expected that the quality and range of Department reviews will improve. Early in the current (FY 1991) review cycle, the DAAG/IRM will provide guidance to components regarding Governmentwide IRM review priorities, agency-specific priorities, and agency IRM review program objectives. Additionally, the SPS has provided the Office of the Inspector General with a list of possible audit candidates.

Because of the Department's continuing initiative to improve computer security, this issue will remain the top priority for IRM reviews in FY 1991. The Department IRM office plans to review the implementation of security plans for the 83 Department systems containing sensitive data. Preliminary review plans for FY 1991 received from components indicate that several security reviews are to be undertaken. For example, the Environment and Natural Resources Division plans to perform risk analyses on its litigation support and administrative systems. In addition, the Office of the Inspector General is auditing the Justice Computer Service ADP operations, and the Drug Enforcement Administration expects to review ADP security, involving vulnerability assessments, risk analyses, and audits of specific information systems. Department components have submitted plans for reviews on information management, telecommunications, ADP management, major information systems, and end user computing. Through analysis of these and other planned audits and assessments, the Department IRM office can measure the Department's progress in achieving governmentwide priorities, agency-specific priorities, and agency IRM review program objectives.

FINDING: THE JUSTICE MANAGEMENT DIVISION DOES NOT MAKE FULL USE OF AVAILABLE REVIEW AND AUDIT RESOURCES.

RECOMMENDATION: THE JUSTICE MANAGEMENT DIVISION SHOULD ARRANGE FOR ITS ANALYSTS TO RECEIVE RELEVANT AUDIT REPORTS.

As indicated in the item above, all review and audit resources are made available to the analysts, particularly the analyst responsible for that particular account. Since the Office of the Inspector General is a fairly new initiative within the Department, some difficulty was experienced in dissemination of OIG audit reports, i.e., a list was provided and individual analysts were required to request audit-by-audit; new procedures allow for distribution of all OIG audit reports automatically to the Systems Policy Staff for use by the IRM staff analysts.

FINDING: JUSTICE EFFORTS TO IMPLEMENT FTS 2000 SERVICE IN LIEU OF ITS PLANNED TELECOMMUNICATIONS NETWORK HAVE PROVEN SUCCESSFUL.

RECOMMENDATION: NONE

The FTS 2000 Project Management Office (PMO) has made significant contributions to the effort to transition and implement FTS 2000. These contributions have not been limited in effect to the Department. The Department has been instrumental in field testing the BFSCAM FTS 2000 cost analysis module developed by the MITRE Corporation for use in agency FTS 2000 pricing studies. GSA has also referred MITRE to the PMO for the purpose of conducting a centralized management study of the PMO for use as a model for other government agencies that are implementing FTS 2000 services.

FINDING: JUSTICE HAS INADEQUATE POLICY AND PROCEDURES IN PLACE TO ENSURE INTEGRATION AND COORDINATION OF ITS RADIO COMMUNICATIONS RESOURCES.

RECOMMENDATION: THE DEPARTMENT OF JUSTICE SHOULD INTEGRATE RADIO COMMUNICATIONS TO ENSURE THAT IT IS SUBJECT TO ADEQUATE PLANNING, MANAGEMENT, AND OVERSIGHT.

Department components operate radio communication programs in accordance with DOJ Order 2422.1, which defines and prescribes departmental policy, responsibility, standards, procedures for the acquisition and management of radio communications systems and equipment, and radio frequency management. Departmental components exercise day-to-day operational management, while Department level control is implemented through the Code of Federal Regulations (CFR), Presidential Executive Orders (EO), provisions of public law (Communications Act of 1934, as amended), and Department Orders.

Departmental oversight is provided via several simultaneous activities within the Justice Management Division, primarily through the departmental representatives to the National Telecommunications and Information Administration's (NTIA) Interdepartment Radio Advisory Committee (IRAC), active participation in the National Communications Systems (NCS) Federal Telecommunications Standards Committee (FTSC) that is charged with the development of Federal standards affecting telecommunications programs and equipment, and through representation on the NCS Council of Representatives (COR) and Committee of Principals (COP) that address governmentwide telecommunications issues. DOJ program managers for any project requiring the procurement of radio communications or services provide purchase orders or contracts to the cognizant staff within the Justice Management Division, wherein they are checked for conformity with departmental, NTIA, and GSA policies.

The Department conducts an annual Departmentwide inventory of radio communications assets at the end of each fiscal year. This

inventory gives the Department's investment and annual costs for radio communications within each component. Detailed information is collected on the current value and quantity of base stations, mobile radios, portable (handheld) radios, radio repeaters, alarm transmitters, radio control consoles, and ancillary equipment. The value and quantity are not estimates, but actual figures based on the last day of each fiscal year. Specific values related to investment, projected annual costs, or equipment and specific numbers change from day-to-day as equipment is added or deleted from a dynamic inventory.

Planning oversight of radio systems is exercised by the Department through reviews of departmental components and submission to the appropriate subcommittees of the IRAC. The IRAC subcommittees involved are the Frequency Assignment Subcommittee (FAS), Spectrum Planning Committee, Technical Subcommittee, and the International Notification Group (ING). The departmental representatives to the IRAC and to each IRAC subcommittee do reviews appropriate to departmental level planning and national level planning as specified by DOJ Order 2422.1 and the Manual of Regulations and Procedures for Federal Radio Frequency Management (47 CFR 300).

The installed base of "encrypted" radios using the Data Encryption Standard (DES) were, in the past, purchased from a single vendor to provide Departmentwide compatibility and interoperability. Different vendors used non-interoperable, vendor-specific modulation processes to implement DES within their product radios. The Department took a proactive stance in the development and approval of Federal Standard 1023 (Telecommunications: Interoperability Requirements for Encrypted, Digitized Voice Utilized with 25 kHz Channel FM Radios Operating Above 30 MHz). The current departmental position is that each component carry out the conversion to radios using FS-1023 as mission and funds permit. Purchase of FS-1023 capable radios will not "create extensive problems with incompatibility," but will enhance interoperability among all users of radios employing FS-1023.

The Department reviews components' reports of expenditures based on the Annual Departmentwide Radio Inventory for each fiscal year. Many factors influence the amount spent versus the projected budget figures, i.e., availability of equipment from manufacturer, budget approval, procurement contract letting, spectrum support availability from NTIA, frequency approvals and recommendations by the IRAC to NTIA, etc. As to consolidating procurement contracts for maintenance, often it has proven more cost effective and expedient to contract for technical and repair services from local commercial vendors.

The review did not consider that the operational use of radios and frequencies on foreign soil are controlled by International Radio Regulations (RR) and/or by treaty with a host government. Additionally, agreements involving a Memorandum of Understanding or Diplomatic Note between the United States and the host government, or local coordination by U.S. Embassy Telecommunication Attache personnel with a host government's postal, telephone and telegraph (PTT) are also employed. Radio operations by the Department within a host government's administration are conducted according to applicable international, United States, and host government laws.

FINDING: THE JUSTICE PROGRAM TO SUPPORT ELECTRONIC OFFICE ACCESSIBILITY FOR EMPLOYEES WITH DISABILITIES LACKS KEY ELEMENTS.

RECOMMENDATION: IRM OFFICIALS SHOULD TAKE STEPS TO ENSURE THAT THIS PROGRAM FOR COMPUTER ACCOMMODATION OF EMPLOYEES WITH DISABILITIES IS FULLY IMPLEMENTED.

It should be noted that the nature of the various missions of the Department's components (for example: the FBI, INS, BOP, DEA, USMS) restrict the number of employees with mobility or perceptual limitations, as opposed to those agencies with non-law enforcement missions.

The review findings generally portray the role played by the Justice Management Division, primarily through the Legal and Information Systems Staff (LISS), as being essentially quiescent and only minimally involved. This finding is inaccurate and reflects neither the actual level of involvement nor the support provided.

In actuality this involvement and support is exhibited by the following examples: the Departmental Automated Information Systems request process was modified in FY 1990 and now requires that, in addition to meeting the normal regulatory requirements, all requestors must consider the provisions of the Federal Information Resources Management Regulation (FIRMR) 201-30.007-2, prior to contracting; during Fiscal Year 1990, the Department awarded approximately seventy contracts containing clauses to meet the Department's and the vendor's obligations to accomoate the handicapped under P.L. 99-506, §508 (29 USC 794d); and, a memorandum from the Assistant Attorney General for Administration was sent to all component heads requesting the number abd type of disabled end users, as well as the solutions employed to accomodate computer accessibility. These responses are currently being analyzed to determine the necesary contractual requirements, clauses and provisions. Further, the following programs have been provided to increase management awareness of

the need for equipment to accomodate disabled end users: (1) in October 1989, approximately 23 vendors exhibited computer accomodation devices to departmental employees. Frequently, individual vendor exhibitions are scheduled to display access equipment as well as to keep managers and technical staffs apprised of the state-of-the-art availability; (2) Since January 1990, the course, "Managing End User Computers for Users with Disabilities," has become part of the departmental management training program; and, (3) on June 26-27, 1990, the U.S. Department of Justice National Conference on Equal Employment Opportunity was conducted and provided attendees a forum to discuss in-depth issues and concerns of disabled end users.

Additionally, LISS had an active representative at all area conferences and seminars as well as at all major meetings dealing with the handicapped for the last several years. Also, System Policy Staff representatives regularly attend applicable conferences, seminars, and demonstrations from a policy perspective.

All AIS plans/requests are reviewed by LISS among other JMD staffs. During this review process, LISS gives "qualified" approvals with the provisos that the requestors ensure that any equipment purchased is able to accommodate handicapped employees. Nonetheless, the reorganization mentioned previously in these comments involves the transfer of electronic office accessibility policy making to the Systems Policy Staff. This should result in an even more pro-active role.

FINDING: THE DEPARTMENTAL RECORDS MANAGEMENT STAFF DOES NOT PROVIDE OVERSIGHT FOR BUREAU PROGRAMS.

RECOMMENDATION: DEPARTMENTAL OFFICIALS SHOULD ENSURE COMPLIANCE WITH FEDERAL AND DEPARTMENTAL RECORDS MANAGEMENT REGULATIONS BY CONDUCTING PERIODIC RECORDS MANAGEMENT REVIEWS.

Responsibility for oversight of the records management activities within the Department, including directives, forms, files, and disposition of records, was formerly assigned to the Facilities and Administrative Services Staff (FASS), Information and Administrative Services (IAS), of the Justice Management Division. FASS's administration of these activities focused on the offices, boards, and divisions of the Department, with each bureau operationally responsible for its own activities. Contrary to the review report, FASS provided frequent advice and guidance to bureau personnel on these four portions of the records management program. Each bureau, in turn, had the responsibility for carrying out its own records management program under the policies and procedures developed by FASS.

FASS was in the process of developing such procedures for periodic reviews of bureaus' record management programs. Under the recent reorganization, the records management activities have been transferred to the Systems Policy Staff under the DAAG/IRM where development will continue and a Departmentwide review procedure is planned and will be implemented.

C. ACQUISITION MANAGEMENT

FINDING: EXTENSIVE DEPARTMENTAL OVERSIGHT OF PROCUREMENT ACTIVITY HAS NOT RESULTED IN SIGNIFICANT IMPROVEMENT.

RECOMMENDATION: JUSTICE PROCUREMENT OFFICIALS MUST PLACE A HIGH PRIORITY ON PROMPT FOLLOW-UP TO ENSURE RECOMMENDATIONS ARE IMPLEMENTED.

GSA has concluded that the review process contains a weak link in that there is a lack of follow-up to ensure that corrective actions have been taken. There is, in fact, continuous follow-up on systems reviews which occurs on a regular basis between scheduled systems reviews. Follow-up does not wait three years for subsequent review; however, current schedules dictate that a review be performed every three years to support the certification requirements of the Attorney General as specified in Executive Order 12352 and 41 USC 414. Follow-ups are regularly conducted on a quarterly basis and documented accordingly if problems continue to exist within a bureau. It is certain that every effort is made, as resources permit, to correct all noted deficiencies.

FINDING: JUSTICE DOES NOT ADHERE TO EXISTING REQUIREMENTS FOR ADVANCE PROCUREMENT PLANNING.

RECOMMENDATION: JUSTICE OFFICIALS SHOULD ENSURE COMPONENT ORGANIZATION ADHERENCE TO ADVANCE PROCUREMENT PLANNING.

Currently, the Department's Procurement Executive reviews advance procurement planning under the authority of Order DOJ 2300.5A, as a part of his annual review authority. Appropriate policies and guidelines will be reviewed and updated where necessary.

Regarding the Drug Enforcement Administration's (DEA) radio acquisition, DEA began the procurement and implementation of secure voice Data Encryption Standard (DES) systems in 1983. By 1986, six divisions had been completely converted and one division partly converted. From 1986 through most of 1987, implementation of DES was suspended pending resolution of the FBI's Integrated Digital Voice Privacy project. The goal of this project was to incorporate the FBI, the U.S. Marshals Service

(USMS) and the DEA into a single Very High Frequency (VHF) radio system. Operational and frequency availability studies had determined by 1987 that the original goal, a single integrated VHF radio system, was not achievable. Beginning at the end of Fiscal Year 1987, DEA recommended the implementation of DES in the remaining 13 non-secure divisions. Implementation progressed steadily at three divisions per year through 1990. Procurement was completed in Fiscal Year 1990 for the remaining four divisions with installation planned for completion by the end of 1991. This will complete the conversion of all 19 domestic field divisions. The completion of this project will integrate all DEA land mobile radio users into a fully interoperable nationwide DES secure voice system.

With the completion of the present DES implementation, the Land Mobile Radio Program is fully implemented. In order to provide a firm basis for future planning, DEA has contracted to complete a study of the Land Mobile Radio Communications System architecture which will recommend an architecture that will satisfy DEA's needs into the next decade. The study will be completed by January 1991.

Additionally, the National Drug Policy Board (NDPB) was created in 1986 to coordinate the use of national resources in the war on drugs. In 1987, the NDPB created the Interagency Working Group on Drug Enforcement Communications (IAWGDEC) with the goal of developing as well as improving a secure and interoperable telecommunications capability to support interagency drug related operations.

The IAWGDEC developed a National Telecommunications Master Plan for Drug Enforcement (NTMPDE) approved by the NDPB in July 1988. The NMPE recommends data encryption standard (DES) protection for sensitive communications be continued and that participating agencies coordinate the acquisition of new systems to ensure interoperability. In 1988, the Office of National Drug Control established the Communications Interoperability working Group (CIWG) as successor to the IAWGDEC, under the Science and Technology Committee, with the responsibility of coordinating and managing NTMPDE implementation.

The CIWG published the draft Drug Enforcement Telecommunication Implementation Plan (DETIP) in March 1990. The objective of the DETIP is to coordinate NTMPDE implementation of a standards driven, interoperable, secure communications capability among the numerous Federal agencies involved in drug law enforcement activities. Among CIWG members are DEA, FBI, Immigration and Naturalization Service, Internal Revenue Service, US Marshals Service, US Coast Guard, US Customs Service, and Bureau of Alcohol, Tobacco and Firearms.

DEA chairs two of the CIWG's subworking groups and fully participates in all CWIG initiatives. Present DEA communications planning does conform to the DETIP and will continue to incorporate the DETIP's recommendations in future planning efforts. The NTMPDE incorporates current Federal standards regarding telecommunications and promotes coordination of future standards development.

FINDING: INADEQUATE ADVANCE PROCUREMENT PLANNING HAS CONTRIBUTED TO HIGH LEVELS OF NON-COMPETITIVE PROCUREMENT.

RECOMMENDATION: DEPARTMENT OFFICIALS MUST INITIATE THE NECESSARY ACTIONS TO IMPROVE THE LEVEL OF FULL AND OPEN COMPETITION AND TO PROMOTE EFFECTIVE AND ECONOMICAL INFORMATION TECHNOLOGY PROCUREMENTS.

The review found that the DOJ had executed 40% of ADP contracts on a sole source basis. Based on percentage of the number of actions, analysis of our reports to the Federal Procurement Data Center for Fiscal Years 1986 through 1988 indicates that only 21% of our actions were sole source. Excluding sole source, an additional 19% of our contracts were processed as other than full and open competition. It should be noted that there are fourteen separate authorities other than sole source listed on the Standard Form 279, Federal Procurement Data System (FPDS) Individual Contract Action Report, that cover those actions. An example of this would be a Section 8A Minority Business contract. The GSA review failed to note the distinct difference between sole source and less than full and open competition. Following is a comparison between competitions, to other than full and open competition, and sole source acquisitions for ADP supplies and services for Fiscal Years 1986, 1987, and 1988. All percentages are expressed as a percentage of the total dollars and/or actions. The "Other than full and open" entry excludes sole source, which is listed separately.

FY's 1986-88	$	Actions	$ %	Actions %
Competitive	290,479,000	844	67.2	59.9
Other than full and open	97,836,000	249	23.9	19.0
Sole source	44,687,000	313	8.9	21.1
Total	433,002,000	1,406	100%	100%

FINDING: INFORMATION TECHNOLOGY PROCUREMENTS REVEAL A PATTERN OF SIGNIFICANT SCHEDULE SLIPPAGE.

RECOMMENDATION: THE DEPARTMENT SHOULD DIRECT ITS COMPONENT ORGANIZATIONS EXPERIENCING MAJOR SCHEDULE SLIPPAGE TO REEVALUATE THEIR INFORMATION TECHNOLOGY NEEDS AND ACQUISITION STRATEGIES.

With the continued complexity of conducting major automated acquisitions, the changes and continuing evolution of technology as well as fiscal and budgetary constraints, the Department as a whole and the component parts, are continuing to devote significant resources in support of the development and implementation of major automated information systems. The Department has, and will continue to, participate in the GSA sponsored Trail Boss Program. Increased participation in this Program will provide key departmental IRM managers with the necessary skills and expertise to efficiently and effectively plan, acquire and manage major automated systems. Additionally, within the Department, quarterly meetings of component IRM managers are being held which will allow exploration of opportunities for shared-acquisition efforts, particularly in the area of office automation, as well as the establishment of departmental interconnectivity standards.

With the creation of the DAAG/IRM position and the resultant reorganization, the Department will not only continue to reevaluate existing acquisition strategies, but will have the opportunity to improve and enhance the Department's overall acquisition program.

As specifically noted in the review, CASE is a major FBI project to upgrade ADP hardware and software. The review indicated that procurements scheduled by the FBI under the CASE agency procurement request (APR) for FY's 1987 and 1988 had experienced delays. Between FY's 1985 and 1990, the total funding actually available to the ADP program was $202,488,000 below planned levels for those years. Funding was redirected to help the FBI meet deficit reduction goals without reducing funding in the investigative programs area. Consequently, planned procurements had to be delayed. As a result, construction of the automation infrastructure of equipment, network and facilities specified in the Long-Range Automation Strategy fell behind schedule. Furthermore, technological advances occurred during procurement delays and these advances were considered when funding later became available, causing additional delay. However, the end result was that the delays caused by technical advances resulted in more competition, contrary to the review's assertion that schedule delays cause reduced competition. Additionally, the review indicated that as of October 2, 1990, no updated APR for Project CASE had been submitted. It should be noted that an APR

providing an up-to-date project plan for CASE was submitted to GSA on August 22, 1990.

With regard to the review of the "CPU Acquisition Case Study," in August 1988, the Department submitted to GSA an APR for the acquisition of 4 IBM 3090-300S or equivalent central processing units (CPU's). In September 1988, GSA granted the DPA under case number KMA-87-0220(B). Included in the APR was an estimated systems life cost for the 4 IBM 3090-300S or equivalent CPU's. Previously, IBM's GSA Authorized ADP Schedule Price List for ADP equipment was used as a basis for developing the estimated systems life costs. However, IBM and Hitachi Data Systems no longer include CPU prices in their GSA Authorized Price List. In fact, Amdahl Corporation doesn't have an Authorized Price List for FY 1990. Without this information, the Department must rely on commercial prices from either a product announcement or a trade publication (e.g., Computer Price Watch). Since the Department was soliciting IBM 3090-300S or equivalent CPU's, the estimated systems life cost developed for the APR reflected the hardware costs for this CPU. The estimate also included the costs for maintenance, transportation, and installation. Again, these costs were available only from a commercial trade publication or a product announcement. A prudent manager must develop an estimated systems life cost for the most expensive CPU that could be acquired under the resultant DPA. The Department, by using the IBM 3090-300S CPU costs, developed an estimate that would allow the more expensive CPU with the required features to be acquired. These CPU's had just been announced by IBM and therefore no discount data was available. If the cost of a less expensive CPU had been used to develop the estimate, a strong possibility existed that the APR and the resultant DPA would be underestimated.

The estimated lease costs for the required CPU features (i.e., Processor Controller) were developed using the costs included in the March 1988 issue of DATAPRO. The estimated lease cost of the IBM 3090-300S CPU was developed using the costs included in the IBM product announcement, "IBM ENTERPRISE SYSTEM ES-3090 (ES3090)," dated July 26, 1988. Neither the cost of the CPU nor of the required features were included on any GSA schedule. In the absence of any GSA-approved methodology, the Department used commercial prices and a DOJ-developed methodology to develop the estimated costs. This same technique was used successfully in previous acquisitions. In fact, the methodology was described in a previous APR for CPU acquisition. In June 1988, GSA issued the DPA for this acquisition under case number KMS-87-9220(A).

In response to Solicitation Number JFJMD-88-R-0052, for the acquisition of the CPU's, fifteen proposals were submitted by three vendors. As a result of the cost evaluation, it was

determined that the evaluated costs ranged from a low of $11,028,748 to a high of $28,487,737, with the difference between the two lowest bids being $1,150,798. One must note that the winning vendor submitted 8 proposals, one proposal with the lowest evaluated costs and seven proposals with the highest evaluated costs.

On February 28, 1989, the Department awarded a contract to the Federal Computer Corporation for the lease of 4 IBM 3090-400E CPU's. Under this contract, maintenance, software, documentation, training, transportation, and installation are being provided at no charge. In fact, the only cost included in the contract is a greatly reduced monthly lease cost for the CPU's. This price reduction can be illustrated by comparing the costs included in the March 1989 COMPUTER PRICE WATCH for the IBM 400E CPU and the hardware costs included in the contract for the identical equipment. This comparison shows that, over the systems life of 36 months, the Government costs were 43.7% below those costs publicized commercially.

The actual cost of the contract was 1/10th, not the 1/100th stated in the review, of the estimated cost specified in the APR. There were three main reasons for this difference: (1) the costs required to develop the estimated systems life cost for inclusion in the APR were not available from GSA Schedule and commercial costs had to be used; (2) the Department did not acquire the IBM 3090-300S CPU's, but rather IBM 3090-400E CPU's which are technically equivalent, but an older and less expensive model; and, (3) the contractor charged only for the hardware which, when compared to the commercial price of the supplied maintenance, transportation and installation, was at a greatly reduced cost.

GSA has not yet issued any standard methodology or guidelines pertaining to the development of estimated costs. Until GSA does so, we will continue to use our current methodology in developing an estimated systems life cost.

FINDING: THE FEDERAL BUREAU OF INVESTIGATION HAS NOT MANAGED ITS PROCUREMENT RECORDS EFFECTIVELY.

RECOMMENDATION: THE FEDERAL BUREAU OF INVESTIGATION SHOULD INSTITUTE A SYSTEM FOR MANAGING PROCUREMENT RECORDS THAT WILL ENSURE RAPID ACCESS.

In the opening statement of this finding regarding FBI management of procurement files, GSA acknowledges that "...FBI procurement files reviewed by GSA appeared to be complete." However, the finding continues, stating that "...the team noted problems with the FBI's maintenance of procurement related files. The files were scattered among various offices so that acquiring them for

review was very difficult. Once found, they were disorganized and failed to support proper management practices." Without knowing specifically what GSA defines as a "procurement file," or what exactly is meant by "proper management practices," these comments have little meaning. It should be noted, however, that when the review team's request was understood, all documents were readily provided to them.

The FBI is unlike other agencies which have a single functional entity that handles all aspects of a procurement action. Rather, each Division within the FBI is responsible for its mission requirements. As a result, a complete "procurement file," such as sought by the review, might not always exist in a single location. Separate files for user and for procurement purposes will co-exist. Each file is complete as to the purpose of the particular division, section, or unit, but does not contain information relating to matter outside its scope. For example, the "contract file" maintained by the Contract Review Unit (CRU) contains all documentation required by regulations for the contracting action, whereas "management documentation" relating to specific programs and/or mission requirements are maintained by the entity within the FBI having responsibility for that program. The Planning and Analysis Section (PAS) of the Technical Services Division prepares much of the requirements analyses that are necessary for procurement of ADP hardware and software. The files maintained in PAS do not contain original records; however, they support the management of PAS's acquisition function.

Notwithstanding the disagreement with the review team's finding, the FBI plans to pursue a file numbering system that ties directly to its Central Records System, thereby resolving GSA's concerns. In this manner, files will be linked through the use of unique numbers even though portions of the "file" are maintained in separate locations. The details of this plan are currently under consideration; however, foreseeable benefits will occur. Specifically, all sections of each file can be easily located; interoffice communications regarding a particular contract can be enhanced; and, earlier recording into the Central Records System can be achieved. Additionally, CRU has initiated a program to standardize each contract file through the use of a uniform format for filing documents within each contract file.

In a related area, when the DPA function was transferred to the Systems Policy Staff, a problem of relating AIS files to DPA files and control files was quickly detected. To rectify this problem, a relatively simple tracking system has been established within SPS. Further, the overall problem has been addressed to procurement and IRM officials throughout the Department.

Copies Furnished:
Official File Copy
Exec Sec
SPS Reading File

HHF:CRN:JAJ:JCR:LMIESSE:11-20-90:514-4312:KDH:DISK LARRY - A\GSA3
RETYPE 11-29-90 per Moscato:lem: DISK LARRY - A\GSA3(2)

CHARLIE

SEE THE PROPOSED CHANGES TO THE COVER MEMO.

ALSO, PLEASE GIVE ME A CALL SO THAT WE CAN TALK ABOUT THE FOLLOWING:

1. WHETHER WE WANT TO TAKE A STRONGER ROLE WITH REGARD TO RADIOS; IS A STRONGER ROLE POSSIBLE?

2. SOME ADDITIONAL DISCUSSION IN THE SECTION ON EMPLOYEES WITH DISABILITIES OF THE ROLE PLAYED BY THE EEO STAFF;

3. THE PROCUREMENT DATA LOOKS HORRIBLE!!! IT GETS WORSE BY THE YEAR. HOW CAN THAT BE?

4. THE RESPONSE ON THE PROCUREMENT MANAGEMENT BY BUREAUS (I.E., SLIPPAGE) DOES NOT SEEM ENTIRELY ON POINT. DO WE WANT TO PROPOSE SOMETHING HERE? IS THIS AN OPPORTUNITY?

I HAVE LEFT A COPY OF THE RESPONSE WITH HARRY SO THAT HE CAN BE REVIEWING IT WHILE WE WORK THROUGH THESE ISSUES.

TONY

U.S. Department of Justice

Washington, D.C. 20530

Mr. Francis A. McDonough
Assistant Commissioner for Federal
Information Resources Management
General Services Administration
Washington, DC 20405

Dear Mr. McDonough:

This is in response to your September 21, 1990, letter enclosing the draft report generated by the recent GSA Information Resources Procurement and Management Review of the Department of Justice.

While I agree with your observation that the Department of Justice has achieved important accomplishments in information resources management (IRM), I do not necessarily agree with all of the purported findings. The report, however, comes at a most appropriate time for the Department; a time when we have just created a position of Deputy Assistant Attorney General for Information Resources Management and ~~our IRM program will be undergoing reorganization and change~~. This change and the findings of the draft report are addressed in the enclosed comments.

The Department looks forward to working with your staff in the near future, not only to improve the IRM program's level of integration and overall effectiveness, but to demonstrate how broader interpretations of IRM can be applied in a ~~program-compliance environment~~.

Sincerely,

Harry H. Flickinger
Assistant Attorney General
for Administration

Enclosure

DEPARTMENT OF JUSTICE
JUSTICE MANAGEMENT DIVISION CONTROL DATA SHEET

From: MCDONOUGH, FRANCIS A., GSA
To: AAG/A
ODD: 11-21-90
Date Received: 09-27-90 Date Due: 12-03-90 Control # : J900927038309
Subject & Date
09-21-90 BY LETTER DATED JANUARY 16, 1990, DOJ WAS NOTIFIED THAT GSA WOULD CONDUCT AN INFORMATION RESOURCES PROCUREMENT AND MANAGEMENT REVIEW OF JUSTICE BEGINNING MAY 14, 1990. REVIEW HAS BEEN COMPLETED AND DRAFT REPORT IS ENCLOSED. REQUEST COMMENTS BY NOVEMBER 21, 1990.
.
SEE 900123 257

	Referred To:	Date:		Referred To:	Date:
(1)	HHF;ACM	11-30-90	(5)		
(2)	SPS;NEILL	12-03-90	(6)		
(3)			(7)		
(4)			(8)		

Prepared by: SPS
Sig. For: AAG/A
Date:
Date Released: 12-03-90

FILE:
PRTY
OPER: JOY

Remarks
(1) 1 SIGNATURE.(DOR)
(2) AAG/A SIGNED 12-03-90; FILE COPIES RET'D FOR FILES; LARRY MIESSE CALLED FOR SPECIAL MESSENGER FOR PICK UP FROM JMD EXEC SEC.(RO)

Other Remarks:

Remarks:
Exec Sec Ctrl #: